THE CHARGE OF *God* and the *King*,

To Iudges and Magiſtrates, *for execution of Iuſtice.*

In a Sermon preached before Sr HENRY HOBART Knight and Baronet, Lord Chiefe Iuſtice of the Common Pleas: and Sr ROBERT HAVGHTON Knight, one of the Iudges of the Kings Bench,

At the Aſſiſes at Hartford.

By *William Pemberton* B. D. and *Miniſter at high-Ongar in Eſſex.*

2 CHRON. 19. 6, 7.

6. *And he (Iehoſaphat) ſaid to the Iudges. Take heed what yee do: for yee iudge not for man, but for the Lord, who is with you in the iudgment.*
7. *Wherefore now, let the feare of the Lord be vpon you, take heed and do it: for there is no iniquitie with the Lord our God, nor reſpect of perſons, nor taking of gifts.*

LONDON.
Printed by *Edward Griffin* for *Samuel Man*, dwelling in Paules Church-yard at the ſigne of the Swan. 1619.

TO THE RIGHT HONOVRABLE FRANCIS LORD VERVLAM, Lord Chancellor of England, one of his Maieſties moſt honorable *Priuie Councell.*

AND

TO THE REVEREND Iudges, and worthy Magiſtrates:

the ſpirit of wiſdome, counſell, and feare of the Lord.

THE *wiſdom of God doth thus profeſſe and proclaime to the ſonnes of men*; By mee Kings raigne & Princes decree iuſtice. By mee Princes rule and Nobles, euen all the Iudges of the earth. *Hereby giuing man to wit, that* the higher powers, *or* Prou. 8. 15, 16. Rom. 13. 1.

τάξις. διαταγή. ἀνθρωπίνη κτίσις. 1 Pet. 2.13.

eminency of authoritie, and order *of magistracy, supreme and subordinate, is the* ordination *of God. Which howsoeuer it be called an* ordinance of Man *in respect either* 1. *of Man the subiect, by whom it is exercised. or* 2. *of Man the obiect, about whom it is conuersant. or* 3. *of Man, the end to whose good it tendeth; yet is still the gift and institution of God, the primary author and prouident ordeiner.* For there is

Rom. 13. 1. no power, but of God: The powers that be are ordeined of God, *to which submission must be yeelded by inferiors for* conscience *sake to God. Which well-ground Maxime whosoeuer shall*

v. 5. *denie, he is worthy to be thrust out with*

Dan. 4. 32. Nebuchadnezzar *to liue among beasts, (vnworthy the society of men) vntill he* know that the most High ruleth in the kingdome of men, and giueth it to whomsoeuer he will. He that is

Eccles. 7. 8. higher than the highest, *the* King of

1 Tim. 6. 15. Kings, and Lord of Lords, *the most mighty* Creator *and most wise* disposer

Dan. 2. 21. *of all things*, who remoueth Kings and

and ſetteth vp Kings, *hath inſtamped his image of ſoueraignitie in* Kings *and* Cæſars, *ſet the Crowne vpon their heads, put the ſcepter into their hands, and created them chiefe Monarches, in their territories and dominions, ouer all others, next vnder himſelfe. And from and by them (through the like impreſſion made) God derines vnto other Prime perſons vnder them, their eminent dignitie, in places of lawfull authoritie. So that Vice-Royes, and all others, in their ſeuerall rankes of gouernment, do beare the ſtampe and impreſſion of God, and the King, more or leſſe, accordingly anſwerable to their diſtinct and ſeuerall orders and degrees.*

Moreouer; the better to eſtabliſh and ratifie this wholſome ordinance, in this excellent eutaxie, and to grace and ſafeguard the perſons of theſe Delegates, as ſacred and inviolable, in their commiſſiue authoritie. God honoureth them with his owne ſtile and title of Gods; *not as if they were ſuch of their owne nature and being (for ſo they are but*

Pſal. 82. v. 1. 6. 7.

men, and die they must like men, and remaine accountant to him, the great God, for their dealings towards the meanest man) but through his grace communicating thus farre his regencie vnto them. And so they are as Gods among men (as bearing Gods image in their power ouer men) and Gods vnto men, as a common good of Gods prouiding (in faithfull dispensation of their function) for the good of men.

Homo homini Deus. κοινὸν ἀγαθόν.

Yet further; as Magistrates are Gods creation, and ordination, in regard of their function; so are they dependant on God, for abilitie to the execution of their function, which they receiue from his effectuall dispensation & prouidence.

Prou. 8. 14. Counsell is mine (saith wisdome) and sound wisdom: I am vnderstanding, I haue strength. Mortall men must in no wise glory in any their owne strength or wisdome, with the proud King of Assyria, lest it proue costly to them as it did vnto him. From Gods gracious gift they receiue their annoynting, other

Isai. 10. 13, 13.

1 Sam. 10. 9. hearts with Saul, vnderstanding hearts

hearts *with* Solomon to iudge the people. *And thus inveſted with theſe ſingular endowments, as with princely* diademes, *and richly furniſhed with thoſe heroicall virtues, of wiſdom, counſell, fortitude, and feare of the Lord, they grow vndaunted for courage, and conſtant for reſolution, in vndertaking & vndergoing of weighty imployments; faithfull in diſpatch of worthy ſeruices; vnweariable for indeuour in ſpeedy performances; and invincible for patience, in enduring oppoſitions, and clamors, of all thoſe ſons of* Belial, *who* deſpiſe dominion, ſpeake euill of dignities, *or will not yeeld obedience to wholſome lawes, nor ſubmit their necks to needfull diſcipline.*

1 King. 3. 9, 12.

Job 29. 14.

Iude v. 8.
2 Pet. 2. 10.

Finally; that all may be well, and all, ſay we, is well that ends well. The goodneſſe of the end doth highly commend the goodneſſe of the act. Now the end of all acts in Magiſtracy (aſwell as in Miniſterie) muſt be ſquared by that the Apoſtles Canon, let all things be done vnto edifying: *and nothing muſt*

ἀπόστολος, εἰ πρὸς, πεῖται πρὸς οἰκοδομὴν ὀφείλων, μηδὲν ἀπέχεται πρᾶξις, ἢ ἀνωφελὴς. Basil.

be done idly or vnprofitably, tending to no good end and purpose. Gouernors must therefore in all their acts and designes, ayme at the right end and scope of gouernment, the glory of God in the good of men. Which end shall be most happily atchieued, if they shall principally eye and respect both the Tables of Gods law, whereof they are the Great-Lords Keepers. Religion or piety to God, in the first Table, the basis and foundation of a truly-prosperous politie: And equitie and iustice to man, in the second, the nerues and sinewes of humane society. Thus when Magistrates ayme at these ends in gouernment; that religion be entertained, the Gospell countenanced, and piety promoted; and that innocencie be defended, right preserued, and vice punished; and, that all be righted, none wronged. Then shall Church and Common-weale iointly and mutually liue and loue, grow prosperous and renowmed, and God shall haue glory from the well-ordered communities of men, and men

felicitie

felicitie in bleſſed communion with God.

Now all proſperous ſucceſſe, in vſe of beſt meanes for atchieuing theſe ends, muſt be expected and fetched from the bleſſing of God, without whom no mortall man can euer proue happy. *For* a man can receiue nothing vnleſſe it be giuen him from heauen: *No counſells of man proue healthfull and ſucceſſfull, vnleſſe God aſſiſt, and giue a bleſſing. Which meditation is the argument of that heauenly hymne, compiled by* Dauid *for his ſon* Salomons *vſe, or by* Salomon *himſelf, inſtructed of God with deep wiſdom-politicall, for his owne:* Except the Lord build the houſe, they labour in vaine that build it; except the Lord keep the Citie, the watchman waketh but in vaine. It is in vaine for you to riſe vp early, to ſit vp late, to eat the bread of ſorrowes; for ſo he giueth his beloued ſleepe. *The building of the houſe, the watching of the Citie, early vp-riſing, and late downe-ſitting, aſſiduous labour, and*

ἔ χωϱὶς ὑμῶν οὐδεὶς ἐυτυχεῖ βεῶ. *Ioh: 3. 27.*

Pſal: 127.

v. 1.

and carking care are all in vaine, vnles God aſsiſt and giue a bleſsing. And ſo doth Gregory Nazianzene *moſt elegantly paranomaze the ſumme and ſubſtance of that diuine Pſalme.*

Θεῦ διδόντος μηδὲν ἰσχύει φθόνος·
Καὶ μὴ διδόντος μηδὲν ἰσχύει πόνος.

which memorable Diſtick I thus, in homely Engliſh, expreſſe.

If God giue good ſucceſſe, enuie can not preuaile.
If God denie ſucceſſe, labour can naught auaile.

If God from heauen ſhall bleſſe and proſper, what force or fraud below can croſſe or controll? But, if God from heauen ſhall croſſe and curſe, what power or wit of man ſhall not proue vaine and fruſtrate? The fencing of Kingdomes, and ſafe-guarding of Countries with wholſome lawes and politicall conſtitutions, with Armies and Nauies, with trenches & bulwarks, with leagues and alliances; yea, with infinite heapes of

of gold and ſilver (which Dionyſius *eſteemed* the adamantine bonds of Empires) *is all in vaine, vnleſſe God aſſiſt and giue a bleſſing. Moſt deliberate counſels and beſt deſigned attempts faile of good ſucceſſe, for want of Gods bleſſing; to rebuke the pride of mans preſuming weakneſſe. And weaker meanes vſed, in want of ſtronger, through diuine aſſiſtance, work wonderfull effects; to correct mans diffidence, and to worke dependance on God: according to thoſe precepts and promiſes.* Truſt in the Lord and doe good: ſo ſhalt thou dwell in the land, and verily thou ſhalt be fed. Delight thy ſelfe alſo in the Lord, and he ſhall giue thee the deſires of thine heart. Commit thy way vnto the Lord; truſt alſo in him, and he ſhall bring it to paſſe. *And according to that moſt memorable practiſe: we know not what to doe, but our eyes are vpon thee.*

Adamantina vincula imperiorum.

Pſal. 37. 3.

4.

5.

And that the flouriſhing ſtate of Common-wealths ſprings out rather from the bleſſing of Gods diuine prouidence,

dence, then from the beſt fore-caſt of humane prudence, Hiſtory, *the witnes of times, and light of truth, doth plainly teſtifie. To which alſo* Heathens *doe giue their ſuffrages from the dim ſight of humane obſeruation. For ſo* Plato *profeſſeth of Common-weales in common:* Where not God but ſome mortall man is preſident, there's no auoydall of any euill. *And* Cicero *of the Romane ſtate in ſpeciall:* The Romane ſtate was proſperouſly gouerned much rather by the aide and helpe of God, than by mans reaſon and counſell humane.

Vbi non Deus ſed mortalis aliquis præſt, ibi malorum nullũ eſt effugium. πολιτειῶν, χ θεὸς ἄρχει. 4. *Dei ope & auxilio multò magis Rompubl. Romanam quam ratione hominum & conſilio gubernari. Cic. pro Rabirio.*

And in a word, that nothing can be well done, and happily ſucceede in Citie or familie, Church or Common-wealth, without the good will and good worke of God, who worketh all things after the counſell of his own will, S. Paul *doth intimate, when he earneſtly* exhorts, That firſt of all ſupplications, prayers, interceſſions, and giuing of thanks be made for all *conditions of* men: for Kings and for all that are in

Epheſ. 1. 11.

1 *Tim.* 2. v. 1. 7. 2.

in authoritie, that, *through Gods good bleſſing on their good indeuours*, we *their ſubiects, in our inferior condition*, may lead a quiet and a peaceable life in all godlineſſe and honeſtie.

The ſumme of all, in ſhort, is this: Kings *as* ſupreme, *and other* gouernors *as ſent by God and them, doe receiue their high places, and princely graces, their function and execution, vocation and diſpenſation, authoritie and abilitie, and all happy ſucceſſe and good fruit in gouernment, for the weale and welfare of themſelues and theirs, from that all-wiſe and all-ruling* Monarch, *great* Counſellor, *and* Law-giuer, *the eſſentiall wiſdome, the ſon of God, who (with the Father, and Holy Spirit, one true God) is the* bleſſed and onely Potentate, the King of Kings and Lord of Lords, the King eternall, immortal, inviſible, and only wiſe, to whom *from them all in all their deſignes is to* be *giuen, as the maine end of their gouernment*, all honor and glory for euer and euer. Amen.

1 Pet. 2. 13, 14.

Iſai. 9. 6.

Iam: 4. 12.

1 Tim: 6. 15.

1 Tim. 1. 17.

Now

Now, Right Honorable Lord, and Reuerend Sages, moſt wiſe and worthy interpreters of Law, and Diſpenſers of Iuſtice, great Guardians, vnder God and King, of Church and Common-wealth, as I freely acknowledge to the glory of God and honour of the King (for which I bleſſe God on the knees of my heart) that God hath bleſſed this Land with many true Worthies, on Benches in Courts of equitie and iuſtice (bright-ſhining ſtars, reſtleſſe in motion, in their orbe of gouernment:) ſo I moſt humbly beſeech you to giue leaue to me, your ſeruant in the Lord, (without your cenſure) from ſincere affection, and dutifull reſpect to your perſons, to put you in minde of that which you know right well (being ſo well furniſhed with wiſdome humane and diuine) and I am well aſſured (on my ſmall obſeruation, and ſhort experience) you endeuour to practiſe (through the ſpirit of grace inſpiring and inabling you) for diſcharge of that truſt repoſed in you in your publike imployments, in this body politique, by

by our gracious GOD, *and our religious* KING.

The thing is this.

Sith the God of heauen and earth is the first mouer, in his supreme orbe of gouernment, all you his secondarie mouers, in this your orbe of gouernment, in this heauen of our politie, ought to moue after the will and ordination of God, and not (as in that other Heauen) by any rapt motion from your priuate affection, nor yet irregular from inordinate passion, nor by that of trepidation for feare of mortall man. You must in your motion run the same course, or vse the same end with God himselfe; namely, the glory of God, in our good of Church and Common-wealth, which as the lower earth, are preserued and cherished, with heauenly influence, through your well-ordered and well-ordering motion. And such subordination will surely cause an heauenly harmony, and heart-pleasing consent, in a circular reuolution thus.

God is the ordeyner of our King,

the

the King the image of God, the Law the worke of the King, Iudges interpreters of our Law, Magiſtrates with them diſpenſers, Iuſtice our fruit of Law diſpenſed, this fruit of iuſtice the good of the people, the good of the people the honour of our King, this honour of our King, the glory of God, the ordeiner, orderer, and bleſſer of all. And ſo in this regular and circular revolution, all motion begins in God, and ends in God, for mans felicitie, and Gods glory, infinitely, and eternally.

Great, you ſee, is your honour: as great is your charge. A double charge; from God, from King. God chargeth *the King: God and King (whoſe* Miniſters *and* ſword-bearers *you are) haue charged you. Your office then of Magiſtracie (as ours of Miniſtery) is not ſo much* nomen honoris *as* oneris. *Your deſire muſt therefore be, not ſo much* præeſſe, *as* prodeſſe, *to beare rule as to profit, to be* benefactors, *for the good of men; that is your end, who are publique Patrons, & oracles of your Country,*

Deut. 17. v. 18, 19, 20.

Rom. 13. 4.

Aug. de Ciuit. Dei l. 19. c. 19.

εὐεργέται. Luc: 21. 25.

Country, Hauens, and Refuges to poore diſtreſſed ones. Your ſymbole muſt be that of Alphonſus, *The* Pelican *with her own bill picking and drawing bloud out of her owne breaſt, with this inſcription,* Pro lege & pro grege: *Herein* will Magiſtracie ſhew your manhood.

Alphonſ. Neapolitan. Rex.

Magiſtratus virũ oſtendit. Ariſt. ex Biante.

Laſtly, whereas theſe matters of iudgment are diſpoſed and diſpenſed not by your ſelues alone, but by many other inferior organs and inſtruments, who need due inſpection and daily information; as interpreters of Law inſtruct them; as Moderators of Iuſtice direct them; as charged your ſelues of God and King to doe iuſtice, lay great charge on them; yea, as armed with power coactiue, by vertue thereof (as far as ſhall be lawfull and needfull) as Guardians of equitie, vrge them to doe, what God and King, law and conſcience, equitie and honeſtie exact at their hands; that this chaſte Virgin Iuſtice *be not by them deflowred,* that conſcience of crime *(in vnrighteous dealing)* may not inwardly

αὐτὸς τ' ἠῢ εἰ̃δεῖο πεί̃σεαι δ' ἄλλῳ. *Hom. il. β.*

Heſiod.

Hieron. epiſt.

wardly wound their conſciences at home, nor their name and familie outwardly beſmeared with iuſt reproch and ignominie abroad: *But that good right be maintained, good conſcience diſcharged, good name preſerued; that God may be honoured, Gods people benefited, the Common-wealth cheriſhed, the Church inlarged, our communion with God and ſociety with men may become moſt comfortable, happy, and bleſſed, while iudgment and iuſtice are equally diſpenſed of all manner perſons vnder God and King, as from God, by God, and for God; as is more largely declared in this inſuing Treatiſe; which, being heretofore once vttered by me, and now drawne into publique by effectuall perſwaſion of others, I now make bold to preſent to your Honours, and Worſhips, becauſe it concernes you all, though for manner not ſo worthy (as I well could wiſh) your learned wiſdomes view and approbation. Well hoping, that, in your priuacie and retirednesſe from your weighty imployments, you*

εὐνομία εὐπολεία μπρ.

you will pleaſe to peruſe it, couering what faults and ſlips you eſpie therein, with your robes of loue, and Chriſtian Charitie, *not looking at my want of diſcharge of my dutie (which I ingenuouſly acknowledge, and ſue for pardon thereof at the hands of God and you) but at the better diſcharge of your owne (whereto this my poore labour, as a weake meane, would further): For ſo you ſtand charged of God, and the King:* Take heede *therefore* what yee doe, for yee iudge not for man but for the Lord. *And the Lord be with you in the iudgment. Amen.*

1 Pet: 4.8.

2 Chron: 19. 6.

Your Honors, and Worſhips, in all dutie, to be commanded,

William Pemberton.

The Charge of GOD and the KING.

DEVTER. 1. 16, 17.

16. *And I charged your Iudges at that time ſaying: Heare the* cauſes *betweene your brethren, and iudge righteouſly betweene euery man and his brother, and the ſtranger that is with him.*

17. *Yee ſhall not reſpect perſons in iudgment,* but *you ſhall heare the ſmall aſwell as the great: you ſhall not be afraid of the face of man, for the iudgment is Gods: and the cauſe that is too hard for you, bring it vnto me, and I will heare it.*

ALL the counſels and works of God (the moſt mighty Creator, & moſt wiſe diſpoſer of all things) doe proceede from the *good pleaſure* of Gods will, which *Ephes.* 1 11.

Voluntas Dei omnium quæ sunt ipsa est causa. Aug: de gen: contra Manich: l. 1. c. 2. Prou: 16. 14.

is the cause of all causes; and tend to the *glory* of his name, which is the end of all ends. And that in the manifestation of his mercy, in the gracious salvation and happines of some; and of his iustice, in the deserued condemnation and misery of others. And this our naturall and temporary life, which we liue on earth, is, in the counsell and decree of God, a præparation and degree to a better life. And in the elect, to omit the rest, to a life spirituall and supernaturall, begun on earth in this time of grace, and continued in Heauen, in that eternitie of glory. This life well led, in faith and obedience, doth highly aduance vs to felicitie and happines: This life ill led, in infidelitie and sin, doth deeply depresse vs into miserie and wretchednesse.

The entrance of Lawes.

Now that man on earth might liue well, God did giue him a *Rule* to liue by. This *Rule* is the *Law* of God (the rule of piety, the square of equitie) first instamped in mans nature in his created

created innocencie. For what was that *Image* of God in man conſiſting of *righteouſneſſe*, *holineſſe*, and *trueth*, but *Lex primordialis*, *a primordiall Law*, (as *Tertullian* ſpeakes) exactly requiring and abſolutely inabling the performance of duties of piety to God, and of equitie to man, both in habite and act; and that in ſinceritie and perfection of them both? And what was the *Morall Law* proclaimed on *Mount Sinah*, after that man had defaced Gods image, by tranſgreſſing his command, but this *primordiall Law* renewed and repeated, as an abſolute and eternall rule and ſquare, of piety to God, and equitie to man, which *God* with his owne *finger* did *ingraue in two Tables of ſtone*, and gaue vnto *Moſes* for the vſe of his Church?

This *Morall Law* requires obſeruation, according to the ἀκριβοδίκαιον, or exact perfection thereof, but it giues no abilitie to performe obedience. It ſheweth what man *now*

Antequã ſcripta fuit in hominum legibus, in mentibus vigebat. Ambroſ. lib. 4. de Abraham Patriarc. cap. 4.

Eph 4.24.

In libro aduerſus Indæos.

Exod. 20.

Exod. 31.18.

ought to doe, what *once* he could haue done; but not what he *now* can do, nor what *it* will inable him to do; but accuſeth and accurſeth euery man, as guilty of ſinne, for the leaſt tranſgreſſion of it. Whereupon God in mercy, to releeue mans miſery, to this law of works giuen in *Sinah*, did adde another *Law*, (as the Apoſtle ſtiles it) the *Law of Faith*, giuen in *Sion*, which promiſeth life and bleſſedneſſe to all that beleeue in Chriſt.

Exod. 20.

Rom. 3. 27. *Iſa.* 2. 3. *Mich.* 4. 2.

The *law of workes*, called the *morall law*, is grounded on *nature*, and may be called *Lex timoris*, *the law of feare*; becauſe, through our impotencie, it doth terrifie and affright vs.

The *law of Faith* (which is the *Goſpell*) is grounded on *Gods grace*, and may be called *Lex amoris*, the *law of Loue*; for *God ſo loued* vs, *that he gaue his Sonne* for vs; and it effectually worketh the loue of God in vs, and reſtoreth vs againe to bleſſedneſſe with God.

Ioh. 3. 16.

Man

Man doth againe recouer this bleſſednes with God, while he is driuen from himſelfe and his ſinnes, by the fearefull threats of the law *morall*, and is allured vnto *Chriſt* by the ſweet promiſes of the *Goſpell*, *this law of Faith*; and is daily renewed by the *ſpirit* of grace vnto conformitie to the law of works, which ſtill remaineth, as a *Rule* of good life (requiring obedience of faith, in way of thankfulnes) till *Gods* glorious *image* be againe repaired in vs, and that eternitie of *glory* be conferred vpon vs.

Aug. lib. 3. ad Bonifacium c. 4. & contra Fauſtum Manich.

In the meane time, for the ſpace of this life, many diſorders and miſdemeanors remaine ſtill in the world. For the greater part of men will not be reformed: the better part are but in part ſanctified. Theſe ſin of weakneſſe, thoſe of wilfulneſſe: both haue neede of all good helps, for reformation to good, or reſtraint from euill.

Whereupon God hath in wiſdom ordeined

Custodes & vindices vtriusque Tabulæ. Deut: 17. Esa. 49.23.

ordeined *Humane Lawes*, and hath appointed *Kings, Princes*, and *Magistrates* to be *keepers of both the Tables of the Morall Law: Nursing-fathers and Nursing-mothers vnto his* militant *Church*, and constant *Defenders* of the *Christian* Faith.

And all their *good* Lawes both *Ecclesiasticall* and *Ciuill* are backs and props vnto Gods holy Law, and, in their due and faithfull execution, effectuall meanes to procure the obseruation thereof. And, in a word, of all good Lawes, whether *written* or *vnwritten* there is a twofold end or scope, as namely, they do respect and ayme at, either piety and godlinesse from man to God, that a blessed communion may be maintained betweene man and God; or equitie & iustice from man to man, that a comfortable communion and sweet societie may be preserued betweene man and man.

And surely, these humane lawes, of *Kings* & *Rulers*, being wisely enacted and

and duely executed, by *Iudges* and *Magiſtrates* competent, and faithfull in the execution of their function, are ſoueraigne helps for the cure of vice, by inflicting puniſhment on malefactors; and to allure to virtue by conferring rewards, and defending of well-doers; and to right euery man in his righteous cauſe, that euery man may enioy his own; That ſo *we may lead a quiet and a peaceable life, in all godlineſſe and honeſtie.* And to this purpoſe are we to *pray* to God for them, and for this end are they *deſigned* to this function by God; and for the better diſcharge of their office and dutie, they receiue a *charge* from *God* and the *King*.

1 *Tim.* 2. 2.

v. 1.

Rom. 13. 1, 4.

And ſo to deſcend to our preſent purpoſe, and to apply my ſelf wholy to time and occaſion; theſe words, of this Scripture, doe commend to our view, a *ſpeciall Charge giuen by* GOD *and the* KING *to Iudges and Magiſtrates for execution of iuſtice*.

This

This *Charge* (I ſay) firſt is giuen of *God*; for *Moſes* was an holy *Prophet* of *God*, and ſpake nothing but from the mouth of God, or by inſpiration of the *Spirit* of God, and therefore this is the *Charge of God*.

Act: 7.35. Bertram de politia Iudaica cap. 5. Deuter.

Secondly, I call it the *Charge of the King*; for *Moſes* was *Prince* and *chiefe Ruler of Gods people*: his authoritie was *Regall*, his power *Soueraigne*, not differing in *nature*, but in name, from that of a *King*.

In this *Charge* we may conſider, 1. The giuing of the Charge: *And I charged your Iudges at that time, ſaying.* 2. The Charge giuen: *Heare the cauſes betweene your brethren &c.*

I

In the *giuing* of the Charge, we may obſerue, 1. The perſon that gaue it, Moſes, *I charged.* 2. The perſons to whom it was giuen, the Iudges, *your Iudges.*

3. The *thing* giuen, for nature, a Charge. *I charged.*

4. The *time* when it was giuen, *at that time*, namely of their election, and

and designation to their function: *And I charged your Iudges at that time, saying.*

In the Charge *giuen* we may obserue, 1. *Instructions or iniunctions* giuen to the Iudges, which are two. Firſt, to heare cauſes deliberately, *Heare the cauſes.* Secondly, to iudge righteouſly, *and iudge righteouſly.* 2

2. The *parties* betweene whom they muſt heare and iudge, propounded, firſt, in relation to the Iudges, *your brethren:* ſecondly, in relation among themſelues, *betweene euery man and his brother*, that is, of the ſame *Nation*, of the ſame *Religion:* neither only ſo, but (as the meaning is more plainly opened) *betweene euery man and the ſtranger that is with him.* A *ſtranger* for kindred, *Nation*, or *Religion*, is yet a brother for *common* nature, and *humane* condition, and therfore muſt haue right done to him as being *a brother.*

3. *Admonitions or cautions* againſt peſtilent impediments, which are frequent

quent enemies to equitie and iuſtice; and they are two.

Firſt, *Acceptation* of perſons, on ſiniſter reſpects: *Yee ſhall not reſpect perſons in iudgment, but you ſhall heare the ſmall aſwell as the great.*

Secondly, *Feare* of mens *greatneſſe* who will be offended at iuſtice: *You ſhall not be afraid of the face of man.*

4. *Reaſons* to inforce the performance of the *iniunctions*, and obſeruation of the *cautions*: 1. *for the iudgement is Gods.* 2. *The charge is from God*, as in the firſt words, *I charged.* As if he ſhould haue ſaid; God hath charged you to do right; God will maintaine you in doing right; therefore heare deliberately, iudge righteouſly, accept no mans perſon, feare no mans face, but do right to the ſmall as well as the great; to the ſtranger as well as the brother.

5. *A caſe of reſeruation* of iudgement in cauſes too difficult, by conſultation or appeale to the chiefeſt Iudge: *And the cauſe that is too hard for*

for you bring vnto mee, and I will heare it.

And this I take to be the intent and ſubſtance of this Charge of God and the King, giuen by Moſes directly to the Iudges of Iſrael, but in them to all other Iudges and Magiſtrates; yea all other officers, all miniſters and inſtruments of iuſtice (for the hand of Iuſtice hath many fingers) as Counſellors, Pleaders, Aduocates, Sollicitors, Shiriffes, Iurors, witneſſes, and the reſt. And it doth meerely concerne, both *God* and *King*, *Church* and *Common-weale*, and euery ſtate and perſon in them both, and affords fit matter for this preſent occaſion, and profitable direction for all ſuch purpoſes. In ſpeaking whereof, that I may ſay ſomething of euery thing, I muſt be ſhort in all. And in all and euery thing, I do moſt humbly craue, Gods powerfull *direction*, that I may be able to ſpeake; your fauourable *attention*, that I may be heard; and *Gods* gracious

cious *bleſsing* vpon that which ſhall be ſpoken and heard, that it may redound to *Gods* glory, and to *our* profit and comfort, and ſo I proceede.

Firſt generall Part. Giuing of the charge.

I. Point. The Perſons who gaue the Charge.

1. God.

2. The King. *Prudentiſſimus Legiſlator, iuſtiſſimus Princeps, ac Propheta maximus. Philo in vita Moſis.*

The *firſt* generall part formerly propounded, is the giuing of the charge: *And I charged your Iudges at that time ſaying.* And the firſt particular therein obſerued, was the *perſon* who gaue it, *I*, that is, *Moſes*. This one perſon *Moſes* ſuſtaines a double perſon: Firſt of *God*, as he was a Prophet of God, and ſpake from the mouth of God. Secondly, of a *King*, as he was the *chiefe Ruler* and gouernour; and ſo it is the *charge of* God *and the* King.

1. God giues this Charge.

Firſt this was the *Charge of God*; for *Moſes* the man of God, was (as was ſaid) an holy *Prophet* of God, immediatly called of God, to this holy function; immediately aſſiſted and directed

directed in his execution by God: and what he injoyned to this people, he receiued it from God; from Gods *mouth*, or by *inſpiration* of his Spirit, or by ſome ſuch ſpeciall and *infallible* information of God.

Moſes elected Iudges to helpe and assiſt him in iudging of cauſes (with varietie and multitude whereof hee was ouer-charged) and this he did by the wiſe and godly counſell of his father in law *Iethro*, yet vpon conſultation alſo firſt had with God, and expreſſe anſwer from the heauenly *Oracle*. For ſo *Iethro* aduiſed him *Exod.* 18.23. *If thou ſhalt doe this thing* (that is, elect ſome assiſtant Iudges) *and God command thee ſo, then ſhalt thou be able to endure.* And the conſcience of *Moſes* conſulting with God did giue teſtimonie to this aduertiſement of *Iethro* as the counſell of God: and therefore this election of Iudges by *Moſes* was in deede and effect, the election of God; and this *Charge* giuen to theſe New-elect, was *Exod.* 18.

ingly the charge of God. Whence it followeth as a ground of all that I haue to ſpeake, that

Doctr. *The charge for right execution of iuſtice giuen to Iudges by the Prophets of God is to be accounted the charge of God.* This charge God giueth ſometimes immediately with his owne mouth: thus God proclaimed the *Morall* Law, which couteines all the grounds of equitie and iuſtice, by his immediate voice; and deliuered to *Moſes* not onely the *Ceremonials*, but alſo *Iudicials* by his immediate direction: and by *Moſes* vnto the Church, as *Leuit.*19.35. *Yee ſhall not doe vnrighteouſneſſe in iudgement, in line, in weight, or in meaſure.* And *Moſes* in the execution of his weighty function, did conſult with God, in his heauenly Oracle; as did alſo *Dauid*, and others, in caſes of difficultie, not expreſſed in Gods word. And God directed *Ioſhua*, after the death of *Moſes*.

Exod.20.

1 Sam.3.7,8.

Ioſh.1.1,2.

God giues this Charge ſometimes by

by his inſtruments, as *Prophets*, *Apoſtles*, and *Miniſters* of the *Goſpell*: By *Prophets*, as by *Moſes* to theſe Iudges in this place; and ſo by *Iſaiah* to the *Iudges of Iudah*, Iſ.1.17. *Seeke iudgement, releeue the oppreſſed, iudge the fatherleſſe, plead for the widow*. By the prophet *Ieremiah* to the King of Iudah and his ſeruants, Ierem.22.3. *Execute yee iudgement and righteouſneſſe, and deliuer the ſpoiled out of the hand of the oppreſſor: and do no wrong, doe no violence to the ſtranger, the fatherleſſe, nor the widow, neither ſhed innocent blood in this place*. And Chap. 21.v.12. *O houſe of Dauid, thus ſaith the Lord, execute iudgement in the morning, and deliuer him that is ſpoiled out of the hand of the oppreſſor*. By the kingly prophet *Dauid*, Pſal.2.10. *Be wiſe now therefore, ô yee Kings: be inſtructed yee Iudges of the earth*. By the prophet *Zachary* to the Iewes, *Thus ſpeaketh the Lord of Hoſtes, execute iudgement, ſhew mercy*. And againe, *Execute the iudgement of* Zach.7.9. Zach.8.16.

trueth and peace in your gates.

By his holy *Apoſtles* vnto *Chriſtian* Magiſtrates, as the Apoſtle *S. Paul* (one for all the reſt) ſets downe the office and charge of a Iudge or Ruler, *Rom.* 13. 3,4. ſaying, *Rulers are not a terrour to good workes but to the euill:* againe, *The Ruler is the miniſter of God, a reuenger to execute wrath vpon him that doth euill.*

Laſtly, God giues this charge by the *Miniſters* of the *Goſpell*, who are his *Ambaſſadors* in matters of God, to declare his will to the people of God. And we (Gods miniſters) ſtand *charged* of God (as *Timothie* of S^t. *Paul*) *before God, and the Lord Ieſus Chriſt, and the elect Angels*, that we *obſerue all that* God injoynes vs without *preiudice*, and we muſt do *nothing of partialitie*, but muſt *diuide the word of God aright*, diſpenſing Gods *myſteries* as his faithfull *ſtewards*, and giuing to our *Lords familie, to each one his due portion, in due ſeaſon:* and ſo preſcribing to Iudges and Rulers their

2 *Tim.* 4. 1.
1 *Tim.* 5. 21.
2 *Tim.* 2. 15.
Luc. 12. 42.

their duties from God, as we our ſelues expect to be iudged of God; and we muſt not dare to *corrupt the word of God; but as of ſinceritie, as of God, in the ſight of God, ſo ought we to ſpeake in Chriſt:* and ſo I deſire to ſpeake vnto you. 2 Cor. 2. 17.

Wherefore, right Honorable and beloued in the Lord, let mee intreat you from the Lord, that *you receiue from vs, who ſerue God in this function, our charge for iuſtice as the charge of God*; not meaſuring the weight of our embaſſage by the meanneſſe of our perſons, but weighing the worthineſſe of our calling, and giuing entertainment to the truth, which we ſpeake according to Gods word, *not as the word of man, but of God*; alwaies remembring that of our Sauiour to his Diſciples, and in them to vs; *Behold, I ſend you.* and, *He that heareth you heareth me*; *and he that deſpiſeth you deſpiſeth me.* And that worthy ſaying of our moſt *learned & religious King* in a ſolemne

Vſe.

Luc: 10. v. 3, 16

At Cambridge March 1614.

disputation in the *Vniuersitie*. *The King himselfe ought to obey the Minister, tanquam spirituali medico ex verbo Dei prescribenti, as to a spirituall Physician prescribing to him out of the word of God.* And this accords with his *Maiesties* instructions to the *Prince* his eldest sonne; *When any of the spirituall office-bearers in the Church speaketh vnto you any thing that is well warranted by the word, reuerence and obey them as the Heraulds of the most high God.*

Basil. Sup. pag. 12.

And so much of this, as the *Charge of God*: Now I come to it as the *Charge of the King*.

2. The King giues this Charge.

The second person whom *Moses* sustaineth in giuing of this Charge is the person of the *King*; for hee was designed *chiefe Ruler* and *Iudge* of Gods people: his authoritie was *Regall*, his power *Soueraigne*, though he gouerned also by others as assistants and counsellors.

Doctr.

Whence *Kings* and *chiefe Rulers* may take patterne for their practise, to

to giue ſpeciall Charge to their Delegates and Deputies, to execute iuſt iudgement vnto the people. For ſo *Moſes* the chiefe Ruler gaue charge to theſe new-elected Iudges and Rulers to heare and iudge righteouſly the cauſes of all men. Snch a charge, for a farewell, did holy *King Dauid* giue vnto *Salomon* his ſucceeding ſonne, 1.King.2.2,3. *I goe the way of all the earth: be thou ſtrong therefore, and ſhew thy ſelfe a man. And take heede to the charge of the Lord thy God to walke in his wayes, and to keepe his ſtatutes* &c. When he further injoynes him, according to his wiſdom to execute iuſtice on *Ioab* and *Shimei*, and to ſhew mercy and kindnes to the ſons of *Barzillai*. The *Ægyptian Kings* were wont (as *Plutarch* reporteth) by the cuſtome of their country, to giue an oath to ſuch as were appointed their Iudges, that they ſhould not ſpeake or doe vnrighteouſly in iudgment, though the King himſelfe ſhould charge and command them.

Which commendable practiſe *Traiane* the Emperor did worthily imitate, and gaue a drawne ſword to the *Pretorian Lieutenant* before all his Nobles, ſaying vnto him: *Si bonus fuero pro me vtitor* (hoc gladio) *ſin malus contra me. If I ſhall be good vſe this ſword for me, if euill, againſt me.* or thus: *Hoc gladio pro me vtaris, donec iuſta fecero: ſi iniuſta fecero, contra me vtaris. As long as I ſhall doe thoſe things which are iuſt, vſe this ſword for me: if I do things vniuſt, vſe it againſt me.* A fact and ſpeach moſt worthy an *Emperor!* whoſe example, at leaſt in the ſcope thereof, is fit to be imitated of euery good King; who ought to acknowledge, that God hath aduanced him, as a little *God*, to ſit on the Throne, and to rule ouer all others for the common good of all. The oath which the King adminiſtreth to Iudges, binds them to ſtrict obſeruation of iuſtice, as it is recorded in the ſtatute of the 18. of *Edward* the *III.*

Pſal. 81.

"Yee

"Ye ſhall do euen law & execution "of right to all his ſubiects rich and "poore, without hauing regard of "any perſon. And that yee denie to "no man common right, by the "Kings letters, nor none other mans, "nor for none other cauſe, and in "caſe any letters come come to you "contrary to the law, that yee do no- "thing by ſuch letters, but certifie "the King thereof, and goe forth to "doe the law, notwithſtanding the "ſame letters. And this is agreable to the commandement of *Antiochus* the King of *Aſia*; That if letters "came from him, or his Nobles to "interrupt the courſe of iuſtice, they "ſhould pocket them vp, ſuppoſing "them to be vnwittingly written, "and ſo to proceed in a ſtrict courſe "of iuſtice.

The oath of Iudges 18. *Edw.* 3 printed *anno Domini* 1578. *p* 106.

A good King giues ſtreit charge for execution of iuſtice, becauſe he knowes that the power of gouernment is as well *onus* as *honos*, a *burden*, as an *honour*, ordeined for the common

mon and vniuerſall *welfare* of all his ſubiects, whereof account muſt be giuen to God. And he is alwaies in his owne eſtimation *Magnus reip. ſeruus, the great ſeruant of the Cõmon-weale*; for place and authoritie aduanced, and *that moſt worthily*, aboue all both perſons and ſtates; and yet in princely clemency reſpectiue of the meaneſt, like a *kind Maſter*, or * *good Father*. *For a good King differs nothing from a good Father*: who, as he is *maximus*, the *greateſt*, ſo is he *optimus*, the *beſt*; a *common*, yea an vniuerſall *good*, who promoteth peace and publike welfare, accounting all his felicitie, *as he is a Prince*, to conſiſt in well-gouerning his Common-weale, and in beſtowing his life, for the good thereof (if need require) as the *Emperor Alexander Seuerus* profeſſed of himſelfe.

Now then, as it is the higheſt dignitie, and moſt neerely annexed to the *Royall Crowne* of a *Chriſtian Prince* to haue the title of preroga

tiue

Salus populi ſuprema lex eſto.

Colimus Imperatorem, vt hominẽ à Deo ſecundum, & ſolo Deo minorem.
Tertull. ad Scap.
Super Imperatorẽ non eſt, niſi ſ. Deus qui fecit Imperatorẽ. Optat. contr. Parmenian. lib. 3.
Parem ſibi non habet. Chryſoſt. ad pop. Antioch. hom. 2.
Patria parens.
* *Ἥμος πατὴρ. Homer.*
ἀγαθὸς βασιλεὺς ὁδὸν ἀμφέρει ἀγαθὸς πατρός. Xenoph.
Κοινὸς ἀγαθὸν. Gueuara.

tiue to be *Defender* of the Chriſtian *Faith*, and to haue *ſupreme authoritie* ouer all cauſes and perſons *Eccleſiaſticall* and *Ciuill*: ſo it apperteineth to him by that high authoritie to manifeſt his care for the common good, as in making and executing of good and lawes for the promoting and eſtabliſhing of Religion, and Iuſtice: ſo alſo in electing good Delegates, and competent Iudges and Miniſters of iuſtice: and in charging and obliging them by all bond of dutie to vſe their authoritie to promote the publike good, in examining and deciding all cauſes and controuerſies, with righteous iudgement and due execution of iuſtice, which is the very life and ſoule of good and wholſome lawes.

Rex quia homo eſt, Domino ſeruit viuendo fideliter: quia verò etiam Rex eſt, ſeruit, leges iuſta præcipiendo & contraria prohibendo, conuenienti vigore ſanciendo. Aug: epiſt: 50. ad Bonifacium. Idem contra Creſconium l. 3. c. 51.

And thus much of the *perſon* who gaue the *Charge*, GOD & the KING: Now of the perſons to whom the Charge was *giuen*, *Iudges and Magiſtrates*.

Your Iudges. That is not onely Iudges

II. Point.

Iudges in the moſt ſtrict and ſtreit notion & ſignification of the phraſe; but *all Magiſtrates* alſo and Miniſters of iuſtice; at leaſt, by true and neceſſarie conſequence.

Doctr. And moſt meete it is ſurely that ſuch a ſtrict charge ſhould be giuen by God and the chiefe Ruler, to ſuch as were elected and deſigned to be Iudges. For they are, for *truſt, keepers of the Law*; and, for their *office, ſpeaking lawes*; and, by their power and authoritie vnder God and the King, principall *ſwayers* and *diſpenſers* of equitie and iuſtice. And as *Maſters* and *Pilots* in the *ſhip* of the *Common-wealth*, who ſit at the *ſterne* and *guide* it forward, through their wiſdome and fidelitie, in an euen, a proſperous, and ſucceſſull *courſe*, vnto the deſired *hauen* of peace and proſperitie: But through their careleſſe neglect and heedleſſe ouer-ſight, they cauſe fearefull *ſhipwracke* and miſerable ruine.

And you know right well, that when

when *Iudges* and Magiſtrates become *wiſe* and *faithfull*, in deliberate *ſanxion* and due *execution* of good and wholſome *lawes* and *ſtatutes*, that then, by *their* good meanes, and *Gods* good bleſſing, Gods lawes are backed, his ordinances eſtabliſhed, piety is promoted, equitie preſerued, the Church is made pious, the Common-wealth proſperous, our communion with God and ſocietie with man becomes moſt comfortable, happy, and bleſſed. But when *Rulers* and Magiſtrates doe *ſwerue* in gouernment, growing careleſſe & negligent, vngodly & vniuſt, abuſing their authoritie or neglecting their dutie; then thorough the iuſt iudgement of *God*, and malice of the *Deuill*, and the vnbridled *furie*, and vnbounded *outrage* of lewd, and ſauage, and vnreaſonable *men*, all things in Church and Common-wealth grow diſordered and confuſed, and finally fall (vnleſſe godly wiſdom in Rulers timely preuent) into fearefull ruine, and

and dreadfull deſolation.

Wherefore for the prudent preuenting of this ſo fearefull euill, and prouident procuring of that ſo hopefull good, all Rulers and Magiſtrates, yea all miniſters of iuſtice, (Sheriffes, Counſellors, Aduocates, Iurors, witneſſes, and the reſt) (who are but *men*, and ſubiect to *sliding*, of wilfulneſſe or weakneſſe) had neede to receiue their charge and direction, from God and the King, for the better diſcharge of this important buſineſſe, for the glory of God, who hath highly exalted them, and for the good of others, ouer whom he hath ſet them: for *quò ſublimior gloria eſt, eo maior & cura eſt, the higher is their honour, the greater ought to be their care*, and inlargeth the ſumme of their future account: for *cui plus creditur, plus ab eo exigitur; to whom more is committed, of him more is exacted.*

Cyprian.

Hieron epiſt. ad Heliodorum de laud. vitæ ſolitariæ.

And thus much of the *perſons*, to whom this Charge was *giuen*: Now I proceede to the *third* particular; which

III. Point. The nature of the thing giuen, a Charge.

which is, the *nature* and qualitie of this thing, which *Moſes* gaue to the Iudges, which is a *command*, a precept, or a charge. *I charged your Iudges.*

Now this being a *Charge* giuen of God and the King, who are in degree the higheſt, it doth *charge the conſcience* in the higheſt degree, & exacteth imployment both of body & minde, for the exact diſcharg of this office & dutie; and that in ſuch ſort, that an approued account may be well and readily made, not only to the *King* and *principall Ruler*, but alſo to *God* himſelfe, the *King of Kings, and Iudge of Iudges*, euen the *Iudge of the whole world.* And for this cauſe it is religiouſly prouided, that an *oath* of the King, yea of the Lord is adminiſtred to inferior *Iudges*, yea to Iurors and witneſſes, the miniſters and inſtruments of iuſtice, for the faithfull diſcharge of this weighty duty, ſo heauicharging, if not ouer-charging, the ſoules and conſciences of all, who beare

Doctr.

Exod. 18. 25.

beare any part in the matter of iudgment.

Vſe. Wherefore, by vertue of this Charge, let all be admoniſhed who haue the leaſt finger in matters of iuſtice (for it doth not concerne the Reuerend *Iudges* alone) let all (I ſay) be admoniſhed in the name of the Lord to account themſelues charged to ſuch performance of dutie, as whereof they muſt be accountant to God and the King. And therefore let religious care be had of all both Iudges, miniſters and inſtruments ſo to demeane and behaue themſelues, as ſincere and faithfull ſeruants of God, and truſty and loyall ſubiects to the King, that they may receiue for their paines, to their *credit* and *comfort*, both *humane* and *diuine* applauſe and commendation.

And thus much of the *nature* of this ſpeach, in that it is a *Charge*. Now time and deſire do haſten mee forward to conſider the *time* when this Charge was giuen.

At

[*At that time*] that is, aſſoone as theſe were elected Iudges. In the fortieth yeare, the eleuenth moneth, and the firſt day, after their departure out of Ægypt. Two moneths and a few daies before their entrance into the land of Canaan, where this their authoritie was to be exerciſed; and not ſo long before the death of *Moſes* the ſeruant of God, their principall Ruler, who dyed the twelfth day of the twelfth moneth, as may be collected out of *Deut.* 34. & *Ioſh.* 1. & 4.

IV. Point. The time whē this charge was giuen.

O conſider, I beſeech you, this charge of *Moſes* to the Iudges, how fit, how *timely*, how ſeaſonable it was.

1 *Aſſoone* as they were ſelected and deſigned to this office, that they might deliberately meditate and fore-bethinke themſelues of their dutie and charge.

2. *Before* execution of any part of their function, that in the beginning thereof they might lay ſuch a good

foundation, that they might the more hopefully expect ſucceſſefull proceedings.

3 A little *before their entrance* into the land of Canaan (their promiſed land) that their inheritãce might not be polluted through violation of iuſtice, in their firſt poſſeſſion thereof, and habitation therein.

4 And a *little before the death of Moſes*, their chiefe Prince and Lawgiuer, that they might not be left deſtitute of direction for matters of iudgement, after the loſſe of ſo worthie a Gouernour.

Doctr. *Wherefore timely and ſeaſonable ought to be the charge which Kings and Princes giue to their Delegates, the Iudges and Magiſtrates:* and which *Iudges and Magiſtrates* giue to the *People* their inferiours; euen in the *entrance* of their function, *before* execution, that they may not ſwerue from iuſtice, through ignorance, for want of direction; nor tranſgreſſe through preſumption, for want of admo-

admonition. And so timely and mature ought to be the charge, instructions, and admonitions of *Parents* to their children, of *Maisters* to their seruants, and of all *Superiors* to inferiors vnder their charge. But to applie my selfe onely to this, this time and occasion.

I onely obserue that its prudently prouided (which is constantly practised) that our reuerend Iudges of Assise (hauing receiued first instructions from the King), make way in their entrance vnto iudicial processe, by giuing of their charge: wherein they doe with great learning and pietie, giue such wise directions, such graue admonitions, and such needfull and seasonable exhortations to the bodie of the Common-weale, whom these businesses doe concern: that vnlesse men be *simple*, they cannot be *ignorant*, and vnlesse they be wilfull, they shall not make *default*, in discharge of the duetie and office wherein they are imployed. *vse.*

And ſo much of the *firſt* generall part of this text, the *giuing of the charge*. Now I come to the *ſecond*, and principally intended, *the Charge which was giuen*; the tenour whereof is this: *Heare the cauſes betweene your Brethren, and iudge righteouſly, &c.*

Second generall Part. The Charge giuen.

I. Point. Inſtructions, and Iniunctions.

In this charge giuen, there come firſt to our view, the *Inſtructions* and *Iniunctions*, which are giuen to the Iudges, which are in number two:

to { heare deliberately. / iudge righteouſly.

And for preparing of our paſſage to the handling of them, wee are to conſider by way of Preface: Firſt, what are the *Cauſes* to be heard and iudged: Secondly, what is the *Rule* of righteous iudgement.

For the *firſt*: the *Cauſes* which fall into the conſideration of Iudges, are

are (by *Plato*) reduced to two heads: to doe *Iniurie*: to doe *Euill*: and (as *Cicero* doth accordingly write) All iudgement was deuised eyther first for the *deciding of controuersies*, or secondly, *punishment of malefactors*.

The matters then (as our reuerend Iudges also tell vs) are *Ciuill*, or *Criminall*, that conceme *right* betweene man and man, or punishment of *crimes*. And therefore to giue to euery one his owne, and to redresse iniuries is a principal office of iustice *distributiue*. And to punish malefactors in causes criminall, is an office of iustice *vindicatiue*, as necessarie for the good of the common-wealth as the other. Now this charge is to be obserued in all kinds of causes, whether *trespasses* or *crimes*: 1. *heare*: 2. *iudge* righteously: 3. The *rule* of righteous iudgement is the *Law*; for the *Law* is a *silent magistrate*, & the *Magistrate* a *speaking Law*: Now the Law, this rule of iudgement, is *Humane*, or *Diuine*; and the order for

Omnia iudicia aut distrahendarum controuersiarum, aut puniendorum maleficiorum causa reperta sunt.
In disceptandis controuersijs, tuenda disciplina.
Iustinian.

conformitie of iudgement must bee this.

Mans Law must bee subordinate to Gods Law; the Iudges sense not to mans Law, and therewithall to Gods Law. *Lawes being once well established, the Iudge must not iudge of them, but by them*, as an *Interpreter* of them: and the Interpreter must haue the same meaning with the Law-maker; otherwise (wresting wordes strictly, contrary to the meaning) *summum ius* becomes *summa iniuria*, strickt law, flat iniustice.

Leges cũ fuerint institutæ non licebit iudici de ipsis sed secundũ ipsas iudicare. Aug.

These things being premised, the directions or iniunctions giuen to the Iudges are two: first, to heare; and seconde, to iudge. Within which three degrees of iudiciall processe (which is the lawfull handling of the action) are included or comprized: first, *Hearing*; secondly, *discussing*; thirdly, *sentencing* of causes: vpon which (as a consequent) followes *execution*: or thus, first *hearing* of the cause, secondly, *giuing* of the

sentnce

ſentence, thirdly, *execution* of the ſentence pronounced; which ſome take to be meant by that clauſe, *Yee ſhall not feare the face of man.* But vnder correction, wee may take it thus: Theſe duties as three degrees in iudiciall proceſſe, are giuen in charge by *Moſes* to the Iudges: firſt to *heare* cauſes wiſely and deliberately: ſecondly, to *ſentence* the cauſes heard, iuſtly and equally: thirdly, to *execute* iudgement according to ſentence giuen faithfully and exactly: or more briefely thus; The iudiciall proceſſe hath three degrees; to heare iuſtice; ſpeake iuſtice; doe iuſtice.

Three degrees in iudiciall proceſſe.

To which are required three things in a Iudge, an eye of knowledge, a tongue of truth, an hand of power. And this is alſo the order to be obſerued therein.

1 There muſt *firſt* be hearing, before the ſentence be giuen, elſe how can the ſentence be iuſt?

2 *Sentence* muſt be giuen before

execution be done, else how can the execution be warrantable?

3. *Execution* must follow vppon sentence giuen, else to what is such processe profitable? But when causes are deliberately and discerningly *heard*, so as the truth is seene as in the cleare glasse of wisedome: when *Sentence* is iustly and equally giuen, as the cause beares weight in the ballance of equitie. And when sentence is throughly and exactly *executed*, as with a sharpe sword of sufficient power, then are these iniunctions and directions of *Moses* faithfully obserued, and sufficiently performed.

The first degree. To heare iustice.

The first degree in iudiciall processe is the *hearing of iustice*, or of the cause to be iudged: and this must needes be first; else no iust sentence can be giuen. Right iudgement doth presuppose sure knowledge. You know the saying; *Si iudicas, cognosce: If yee will iudge, take notice of the cause*, for the cause must be knowen before it can bee iudged, and first heard,

Senec. Trag.

heard, that it may be knowne. And *he that ſhall giue ſentence, eyther partie not firſt heard, though his ſentence proue equall, yet is hee not an equall Iudge.* The *Lord* himſelfe obſerues this order of proceſſe, where its ſayd *That God went downe to ſee the Citie and Tower* which the Nimrodians had builded. On which place *Chryſoſtome* doth well obſerue, that Gods ſpirit doth declare by an ἀνθρωποπάθεια (or humane kind of ſpeech) that men ought not to condemne their brethren before certain knowledge and notice of their cauſe. And before the finall ſentence of deſtruction bee paſſed on *Sodome*, the Lord firſt takes notice of their eſtate; ſaying, *Becauſe the crye of Sodome and Gomorrha is great, and becauſe their ſin is very grieuous; I will goe downe now, and ſee whether they haue done altogether according to the crye of it: which is come to mee: and if not, I will know.* The Lord who knew all things of himſelfe, will alſo take notice,

Qui ſtatuit aliquid parte inaudita altera, aequum licet ſtatuerit haud aequus erit.
Senec. Plaut.

Gen. 11.5.

Non humano modo hoc intelligamus, ſed vt per hoc erudiamur, nunquã temerè fratres condemnandos, neq; auditu ſolo iudicandũ, niſi pluribus argumẽtis prius certi reddamur. Omnia enim ideo à Deo fiunt & ob hoc tantâ ad erudiendum humanũ genus vtitur ſermonis attemperatione.
Gen. 18.v.20. v.21.

tice, as by iudiciall proceſſe, thereby, as in a Table, to commend to our view, as in a liuely *picture* or perfect patterne, the order to bee obſerued in iudiciall proceedings for humane profit and conſtant imitation. And thus God firſt heard the Iſraelites *groane vnder the burdens of Ægypt*, and then, and not before, he ſent deliuerance.

Exod. 2. 7. 22. 23. 24.

Doctr.

To *teach* all Iudges, who beare Gods Image and title in their office, to follow him, as their patterne in the execution thereof; not precipitating ſentence before due conſideration, & well-weighing, and diſcerning the equitie of the cauſe: for if God did ſo, who is the knower of all things, who cannot be deceyued, miſled, or corrupted; much more ought men giue diligence hereunto, who are daily ſubiect to be miſtaken, through ouer-ſight, to bee miſled by affection, tranſported through paſſion, precipitated with preiudice, and deceyued with colourable pretences, and gloſſes. But

But here I ſhall not need to preſcribe to our reuerend, godly, and well-experienced *Moderators* of Iuſtice, but onely poynt at ſuch things, as they know, and which, on occaſion, I haue ſometimes obſerued, to be religiouſly practiſed in their iudiciall proceſſe: and this I ſhall the rather be bould to ſpeake, that inferiours of leſſe, both knowledge, experience and conſcience, may take notice of ſuch vertues, for due approbation of them in their betters; and reſpective imitation of them in themſelues.

Now this hearing which tends to the notice of the cauſe, is eyther a *ſimple* hearing of both the parties, or elſe an accurate *diſcuſſing*, and examining of their euidences and proofes.

Hearing is eyther 1. ſimple hearing. 2. Diſcuſſing.

The firſt is the equall *hearing* of all perſons, both *actor & reus*, plaintife and defendant, *Small as well as great*. This was obſerued in the arraignement of *Ieremiah* the Prophet,

1. Hearing.

Ier 26. v. 2. 3. 4. 12. 16.

phet, whom the Priests and Prophets apprehended and conuented before the Iudges, and accused capitally as worthie of death, for denouncing Gods iudgements against Iuda at Gods command: *Ieremiahs* defence was accordingly heard, & he acquitted by the Princes and Iudges. *Pilate* thus farre demeaned himselfe well in the case of our Sauiour, while hee would not giue credite to the high-Priests accusation, but would heare the poore defendant, as well as these plaintifes, though men of chief place and authoritie amongst them. *Nicodemus* did reason like a worthie Iudge, and prudent Magistrate; *Doth our Law condemne any man before it heare him, and know what hee doth?* But the rest, his vniust and vnequall Brethren, did *take him vppe* very sharpely for it, and resolued to condemne Christ absent, and vnheard in his iust defence; whereas the most grosse, and most vile malefactor ought first to be conuicted, by

Iob. 18. 29.

Iob. 7. 51.

two

two witneſſes at the leaſt (*Deutr.* 19. 15.) before ſentence of iudgement be paſſed againſt him. *Hee that anſwereth a matter before it be heard, it is folly and ſhame vnto him, ſaith the Wiſeman. Prou.* 18. 13.

It was the equitie of the Iudges by the law of the *Athenians*, to hear both parties alike. And an Iniunction ſet downe in the 12. *Tables*, at auncient Rome: *Before mid-day take notice of the cauſe when both the perſons in preſence haue pleaded.*

And it was alwaies accounted a moſt haynous offence, *to ſentence, or condemne men, their cauſes not firſt heard*. And prudent prouiſion is made by all good lawes, that *iudgement bee not giuen before the cauſe bee heard*.

As there muſt be a *ſimple* equall hearing of both the parties; ſo muſt there be an accurate *examination* and exquiſite *diſcuſsing* of the cauſe. This is the law of God. *Deutr.* 13. *ver.* 12. 13. That if the Iudge haue heard of an

τὸ ἑτοίμως ἀμφοῖν ἀκροᾶσθαι. *Demoſth.* πρὶν τὰ σαφῆ. *Ante meridiem cauſam conſcito cum perorarint ambo præſentes. 12. Tab.* Neminem nec auditum hominem damnare nefas vltiùs cenſetur; *Ammon. Marcel.* Nulla maior iniuria quam indictâ cauſâ aliquem iudicare. *Lucianus.* Μὴ πρὶν δίκαιος, πρὶν ἀμφοῖν μῦθον ἀκοῦσαι. *Plato in Demodoco ex Poeta.* 2. Diſcuſſing. *Iudicantem oportet cuncta rimari, et ordinem rerum plena inquiſitione decurrere, quouſque ad veritatem perueniatur. E lemberius.*

an abhomination done (as the ſeducing of Gods people) *he muſt inquire, make ſearch* & ask, and *that diligently*, (great is the emphaſis and weight of the words) and if it bee found certainely true, then muſt hee puniſh. *Deutr.* 17.4.5.6. *Ioſhuah* would not condemne *Achan* vpon Gods Lot, and his owne confeſſion, vntill hee found (by ſearch) his confeſſion to be true: Not *Saul Ionathan*; nor the *Mariners Ionah* taken by lot, vntill examination and hearing of their anſwer and defence: and *Nicodemus* doth take it an expreſſe poynt in Gods Law, That a man ought not to be cõdemned vpon bare hearing, no not till it bee knowne what hee hath done. Thus did righteous *Iob*, in his legall proceſſe. *The cauſe that I knew not, I ſearched out, Iob.* 29.16. And thus farre did *Pilate* well in the cauſe of Chriſt, *Iob.* 18.30. And *Feſtus* the Preſident of *Cæſaria*, and *Fælix* his Predeceſſor in the caſe of S^t. *Paul.* And *Salomons* wiſedome was experien-

Ioſhuah. 7. 22. 1. *Sam.* 14. 43. *Ionah.* 1. 8. 10.

Iob. 7.

Act. 25. 27. *Act.* 24 22. 27.

experienced and admired in that firſt caſe of the two harlots, who contended for the child, when after ſtrict examination, through a wiſe inuention and ſemblance of diuiding the quicke childe, he did extort a confeſſion from the true mother, by ſtrange commotion of her naturall affection. And God himſelfe doth often inculcate this as the dutie of the Iudge: *The Iudges ſhall make diligent inquiſition:* and for this cauſe they had neede both to haue, and vſe thoſe excellent parts of wiſdome and vnderſtanding, which God requireth of them, and beſtoweth vpon them. *Deutr.* 1. 13.

1 *King.* 3.

Deutr. 29. 18.

How needfull and helpfull in iudiciall proceſſe is the exquiſite and accurate diſcuſſing of the cauſe, it may appeare by this; that the more exactly the cauſe is diſcerned and knowne, the more iuſt ſentence may thereof be giuen, as Great *Demoſthenes* did well obſerue.

Wherefore there are required (as you

you know right well) in a Iudge or Magiſtrate in hearing of cauſes, that they may be equally heard and exquiſitely diſcuſſed, ſundry things to be obſerued and practiſed.

Things to be obſerued in hearing of cauſes.

1

Serious *attention* to the matter in hand, that no materiall proofe or important reaſon, tending to euince the equitie of the cauſe, through heedles neglect be omitted or let paſſe, without obſeruation and notice taken thereof. For as one well learned and experienced ſaith well: *In that oftimes which paſſeth by the eare, doth the ſtate of the cauſe conſiſt.*

In eo ſæpe quod aures prætervectum eſt, ſtatus cauſæ verſatur. Joan. Bodin. de repub.

2

Wiſe *moderation* and ordering of the proceſſe; that impertinent digreſſions, odious invectiues, and calumnious imputations among pleaders or witneſſes, vſed to prejudice the contrary perſon or cauſe, be ſeaſonably interrupted, and ſharply rejected, and that neither party be hindred, by his aduerſaries raſh interruptions, and cauſed to omit, or conceale, what may make for his purpoſe,

poſe, and to cleare the equitie of his iuſt and equall cauſe. It is the part of the *Pleader* or Aduocate, onely to *declare* whether the thing be ſo or not ſo, done or not done; whether *iuſt* or vniuſt the *Iudge* himſelfe muſt know. *Ariſt. lib. Rhet.*

And here I deſire the learned and experienced Moderators of iuſtice to conſider, whether (for the moſt part) the *wrong-doer* be not the more peeuiſh and clamorous, and beſt armed with Pleaders and Aduocates againſt the innocent?

There muſt be invincible *patience*, and vnweariable forbearance, of the ſlowneſſe of ſpeach, dulneſſe of conceit, rudeneſſe of behauiour, and other infirmities and weakneſſes of many the meaner and inferior ſort, whoſe teſtimonies for others, or defences for themſelues, in iudiciall proceſſe, are of neceſſitie required. Such wants and defects muſt be paſſed by with charitable *forbearance* and compaſſionate reſpect.

4

All *vnquiet affections* and inordinate paſſions, of hatred, loue, enuie, anger, raſh zeale, or the like, muſt be quite put off, and wholy laid aſide. *Deſire and anger are ill Counſellors, worſe Iudges. Loue troubleth counſels. Enuie neuer ſpeakes well* (that is iuſtly) ſaith our common *Prouerbe.* Yea, all inordinate affections blind the eyes, and preiudice iudgement, and therefore all dealers in iudgement, eſpecially the chiefe ſwayers, muſt ſpeake ἀνευ παθῶν, *without affections.* It was the oath of the *Heathen* Iudges, as the Orator doth report: *I will heare the plaintiffe and defendant with an equall mind, without affections and reſpect of perſons.*

Conſultores ſunt peſſimi cupido & ira. Saluſt. Amor turbat conſilia. Hieron.

Audiam accuſatorẽ & reum ſine affectibus & perſonarum reſpectione. Demoſth.

5

Not to inſiſt particularly on more particulars, there muſt be firmeneſſe of *memory* to recall ſuch euidences as were of moſt moment on either behalfe; and *wiſdome* and knowledge, and a kind of *dexteritie* in conferring and comparing cauſe with cauſe, and reaſon with reaſon; and *iudgement* and

and learned *skill* in the lawes, both diuine & humane, to weigh the proofes in the ballance of iuſtice, and to diſcerne and diſtinguiſh of iuſt and vniuſt, that ſo the cauſe may be fitted for ſentence: elſe cannot the ſentence proue iuſt and equall, but *good ſhall be called euill, and euill good*; the wicked ſhall be abſolued, the innocent condemned. For that of *Auguſtine* is certainly true, *Ignorantia Iudicis eſt calamitas innocentis: The ignorance of the Iudge is the calamitie of the innocent.* It was the ſpeach of a learned man, very well ſeene and experienced in this kind; *Who knowes not that ſo many things are required in the office of a good Iudge, that they eaſily eſcape the moſt skilfull and diligent?* And therefore in a word, to conclude this point, all the will and skill, vſe and exerciſe of heart and eare, body and mind, had neede to be imployed in hearing of cauſes; that all the weight, of right or wrong, being put into the ballance of equitie and iuſtice,

Iſai. 5. 20.

Aug. de Ciuit. Dei l. cap. 29.

Quis eſt qui neſcit tam multa in boni iudicis officio poſita eſſe, vt peritiſſimos etiam ac diligentiſſimos fugiant?

Vſe. 1.

ſtice, it may be diſcerned, by the vnderſtanding Iudge, which of the ſcales is of greater poiſe and weight.

2 Vſe.

But for want of theſe and ſuch like obſeruations in this firſt degree of iudiciall proceſſe, there was much iniuſtice and ſin committed by Iudges and Magiſtrates in the caſe of [a] *Ioſeph*, of [b] *Mephiboſheth*, of [c] *Naboth*, of [d] *Amos*, of [e] *Chriſt Ieſus*, of [f] *Stephan*, of [g] *Athanaſius*, and very many others, as Hiſtories do record, and experience doth declare.

a *Gen.* 39. 14.
b 2 *Sa.* 16. 13.
c 1 *King.* 21. 13.
d *Amos* 7. 10.
e *Mat.* 26. 59, 60.
f *Act.* 6. 13, 14.
g *Theodor. lib. Eccleſ. l.* 1. *c.* 29. *Socrat. lib.* 1. *c.*

And thus much of the firſt degree of iudiciall proceſſe, of the *hearing* of iuſtice: Now I proceede to the ſecond degree, which is the *ſpeaking* of iuſtice: *and iudge righteouſly.*]

The II. Degree. To ſpeake iuſtice.

After the cauſe is diſcerningly heard, then is iudgment to be iuſtly giuen, and ſentence to be equally pronounced: *not according to affection and fauour; but according to iuſtice and truth:* according to the preſcript of wholſome law, which is the *ſquare*

ὐ κατ' ἀ γνωμὴν ἢ χάριν· ἀλλὰ κατὰ τὸν δίκαιον νόμον ἢ ἀλήθειαν.

of

of equitie; the law (I ſay) of *Man*, and the law of *God*. For as the law of the King, who is the Head of the Common-wealth, is the life of this bodie Politike: ſo is the law of God the ſoule of the law of the King; and as the law of the King ought to be conformed to the law of God, which is the right rule indeed of equitie and iuſtice: ſo the ſentence of the Iudge muſt be conformed to the law of God, and the King, that it may be an equall ſentence. For the *Law* is nothing elſe but *a ſilent Magiſtrate*, and the *Magiſtrate, a ſpeaking law*, or a ſpeaker of law. And a Iudge or Iuſtice is a ſpeaker of iuſtice, and *iudico* is *ius dico*. And therefore *a Iudge or Iuſtice, in whom iuſtice is not, is not a Iudge*, but by equiuocation. It is the injunction of the law diuine: *Iudges and officers ſhalt thou make: and they ſhall iudge the people with iuſt iudgement. Thou ſhalt not wreſt iudgement. That which is altogether iuſt ſhalt thou follow.* Worthy an Emperor was

Iudex hinc dictus, quod ius populis dicat, quod iure diſceptet, id eſt, recte iudicat: iudex in quo iuſtitia deſideratur, eſſe nequeat Iudex Iſidor. Deutr. 6. v. 18, 19, 20.

the profession of *Iustinian*, which I would commend to your godly imitation: *Æquũ me vtriq; parti tam in disceptandis cõtrouersiis, quam in tuenda disciplina præbebo* &c. *I will shew my selfe equall to both parties, as well in deciding of controuersies, as in defending of discipline. I will fauour neither part beyond law and right, and if I shall not obserue these things, I shall be exposed to all discommodities, both here and in the world to come, in that dreadfull iudgement of our great Lord God, and our Sauiour Iesus Christ, and I shall haue my portion with Iudas, the leprosie with Huzziah, and trembling with Cain.* O memorable sentence worthy to be ingrauen in the very heart of Iudges and Magistrates, with the point of a Diamond, yea with the finger of Gods spirit. And so much of this.

Æquum me vtrique parti, tam in disceptandis controuersiis, quam in tuenda disciplinâ præbebo. Neutri parti præter ius & fas adstabo. ero. quod si hæc non obseruauero, omnibus incommodis ero expositus, tam hîc quam in futuro seculo, in horrendo iudicio magni Domini Dei & saluatoris nostri Iesu Christi: habeboque partẽ cum Iuda, & lepram cum Huzziah, & tremorem cum Cain.

The 3 Degree. To do iustice.

Now we are come to the last degree of the dutie of a Iudge in iudiciall processe, which is the *doing of iustice*, or *execution* of iudgment pronounced. After

After the cauſe is diſcerningly *heard* with the eare of iuſtice, and the *ſentence* equally pronounced with the mouth of iuſtice, then muſt *execution* be exactly done by the hand of iuſtice; both in rendring to euery man his right, and alſo in freeing the innocent, and puniſhing maleſactors. For vnleſſe this exact *execution* do follow, the former proceſſe is altogether fruitleſſe, and tends to no profit or good effect. But in matters of *controuerſie* the partie oppreſſed ſtands ſtill vnreleeued, after all his coſt and painefull trauaile. And in matters of *crime*, enormities and diſorders remaine ſtill vnreformed. And in both, both Church and Common-wealth ſtand fearefully ſurcharged with the guilt of many ſinnes. And often for want of due execution of iudgement by the ſword of the Magiſtrate, the ſword of Gods wrath is vnſheathed againſt a Land; eſpecially for the releeuing of the helpleſſe oppreſſed, and in reuenging

of bloody and crying ſins.

And thus much of the inſtructions and injunctions giuen to the Iudges, and of the three degrees of iudiciall proceſſe, which are the three duties of a good and worthy Iudge.

II. Point. Parties betweene whom they muſt heare & iudge

Now followeth the ſecond particular obſerued in this Charge, namely the *parties whoſe cauſes are to be heard and iudged*, which are ſet out in relation: *Firſt* to the Iudges, *your brethren. Secondly*, among themſelues; *Betweene euery man and his brother*] that is, (as was ſaid) of the ſame Nation, of the ſame Religion: neither onely ſo, but of the ſame nature, *And the ſtranger that is with him:* a ſtranger for kindred, nation, or religion, is yet a brother for common nature and humane condition, and muſt haue right done him as being a brother.

Your Brethren] The name *brother* is a name of ſpeciall relation, and notes out a ſpeciall vicinitie of one vnto another, and ſome degree of equalitie

equalitie one with another.

The perſons whoſe cauſes are to be heard and iudged are *brethren* to the *Iudge*; not, indeed, in function, or equalitie of condition. For herein are Iudges and Magiſtrates exalted aboue them, and for this cauſe they owe reuerence and reſpect to the Iudges. *Rom.* 13. 1.

As for *Anabaptiſticall* conceits, which denie lawfull Magiſtracie, and would bring in vnſeemely paritie, and confuſed anarchie, they are to be vtterly renounced, and farre abandoned out of the hearts of all true Chriſtians; and that auncient *law* is to be embraced, which calleth it *ſacriledge not to reuerence and obey the Magiſtrate:* and thoſe who do contemne the Magiſtrate, doe contemne euen *God himſelfe* (who is the ordeiner and mainteiner of magiſtracie) *as the Lord himſelfe ſaith vnto Samuel.* Yet is the Iudge to account them his *brethren: Brethren* (I ſay) in common nature and humanitie, *brethren* (it *Confutat.* 1 *Sam.* 8. 7.

may

may be) in grace and Christianitie; *brethren*, both in humane condition, and christian profession.

Doctr. Which consideration ought to stir vp *Iudges* and Magistrates vnto alacritie and cheerefulnesse in execution of their function; seeing all their imployments & trauels therein tend to the good and profit of their *brethren*. Now what studie is too vnceſſant? what trauaile too toylesom? what labour too great? what time too long? what tolerancie too tedious, in procuring the weale and welfare of their *brethren?* Especially, seeing they are set apart to this honorable imployment, by ordination and injunction of God and the King, who haue highly aduanced them aboue their brethren, to be Iudges and deciders of their persons and causes. *Cypr.* *Quo ſublimior gloria eſt, eo maior & cura eſt: The higher is their glory, the greater ſhould be their care.* Wherefore I beseech you from the Lord, most reuerend Iudges, heare the

the cauſes, and iudge righteouſly betweene your brethren, *for they are your brethren.*

But if one only or ſome few were *brethren* to the Iudge, and not the reſt, then were he not a fit and a competent Iudge, for then were the caſe in ſome ſort his owne, and *few are fit Iudges in their owne cauſes. For its inbred in all mortall men, to loue themſelues and their owne things, and to be kind and fauourable in their owne cauſes.* And therefore the auncient *lawes* of *Emperors forbade that men ſhould be Iudges to giue ſentence for themſelues.* And it is an aſſertion of that great Lawyer *Vlpian*, that no man ought to be Iudge for himſelfe, or his wife, or children, or the reſt that are neere vnto him.

But now the parties are all *brethren among themſelues*, aſwell as to the Iudge; and that in nature, nation, and profeſſion of religion, as the Iewes were, and as we are. And why ſhould men contend, ſeeing they are *brethren?*

Nemo fere eſt, qui ſit bonus iudex in ſuis rebus. Ariſt. polit. lib. 3.

Inſitũ eſt mortalibus cunctis, vt ſe & ſua ament, & ſint benigni in ſuis cauſis. Senec.

Lege diſcernim⁹ neminẽ ſibi eſſ⁹ iudicem, aut ius dicere debere. Imper. Cod. lib. 2. tit. 5.

Qui iuriſdictioni præeſt neq; ſibi ius dicere debet, neque vxori, vel liberis, vel cæteris quos ſecum habet. Exod. 2. 13.

brethren? why ſhould men defraud, oppreſſe, rob, ſpoyle, maime or murther their *brethren?* It is a very great both ſin and ſhame, that men of the ſame Nation and language, who liue vnder the ſame King and lawes, who enjoy the ſame liberties and priuiledges, who are linked together in neighbourhood and acquaintance; yea, who partake in the ſame communitie of grace and communion of glory, ſhould not liue in loue together, and *keepe the vnitie of the ſpirit in the bond of peace*, but defraud, oppreſſe, and injure one another.

Ephes. 4 3.

And if, through their owne corruption, and Satans malice, they fall at variance, diſcord and controuerſie, then ſurely ſuch as are deſigned and appointed by God and the King to performe and execute the moſt honorable office and function of *Iudges* and Magiſtrates, ought to vſe their beſt endeauour, to compound controuerſies, to right wrongs, to puniſh crimes, and by all good meanes to procure

procure both publike and priuate peace, that all men may liue ſafely, quietly and louingly together, *becauſe they are brethren.*

Laſtly, ſuppoſe any be a ſtranger, for particular nation, or profeſſion of religion, yet is he ſtill a brother in *common nature* and humane condition; and therefore muſt haue iuſtice done to him, as being a *brother*, both vnto the Iudge, and vnto his neighbour.

Heare and iudge righteouſly between a man & the ſtranger that is with him] All men were created one in nature, reaſonable creatures, all were inſtamped with the image of God, all retaine their ſimple nature, though all haue not recouered Gods image, but remaine corrupted; and all muſt haue iuſtice, for its founded in nature. Yea and for a *Chriſtian* Iudge not to doe iuſtice to an *Ethnick* or pagan contending with a Chriſtian, were to abuſe his function, to blemiſh his religion, to harden the Pagan in his infidelitie and

and ſin: And not to right a *Chriſtian* contending with a *Pagan* were, beſides the abuſe of his function, to neglect his dutie to one deare to God. Fit it is that he ſhould receiue equitie and iuſtice at the hand of the Iudge, who hath found grace and mercy at the hand of God. Among the *Iewes* there was *one Law for all, for the ſtranger, and for one of their countrey:* if either ſinned, either muſt be puniſhed. *Leuit.* 24. *v.* 16, 22.

The ſumme of all is this. All men are *brethren* to the *Iudge* himſelfe, therefore he muſt in loue and dutie labour to releeue them all. All are *brethren* amongſt *themſelues*, therefore he muſt haue equall reſpect for righting of them all.

Wherefore, as *Moſes* from God ſaid to theſe Iudges, ſo I, from the ſame God, ſay vnto you all, moſt reuerend Iudges, and all miniſters of iuſtice, *Heare and iudge righteouſly betweene your brethren, and betweene euery man and his brother, and the ſtranger*

ſtranger that is with him.

And ſo much of the *perſons:* Now I proceede to the *third* particular obſerued in this charge, namely, *The admonitions or cautions* giuen to the Iudges, againſt peſtilent impediments which are frequent enemies to equitie and iuſtice, which are in number two. *III. Point.* Admonitions or Cautions.

1. *Acceptation* of perſons, for ſiniſter reſpects.

2. *Feare* of mens greatnes, who will be offended at iuſtice.

The former *admonition* or caution is againſt that principall impediment of iuſtice, *acceptation of perſons*; which is ſet downe 1. *Negatiuely*, ſo that the vice is forbidden, *Yee ſhall not reſpect perſons in iudgment.* 2. *Affirmatiuely*, ſo that the vertue is commanded; *You ſhall heare the ſmall as well as the great.* The firſt impediment of iuſtice.

Acceptation of perſons, vnjuſt and vnlawfull, is ſuch *by and outward* reſpect had of the perſon, as doth *nothing* make for the *equitie* of the cauſe,

cauſe; and yet drawes the Iudge, Iuror or witneſſe, or other miniſters of iuſtice, to doe *vnequally* in caſe of iudgement, by reaſon of his *vnequall* reſpect to the *perſon:* as when mens vnjuſt and vnequall cauſes are fauoured and furthered, for amitie, enmitie, hatred, or loue, for bribes, wealth, kindred, authoritie, or the like: and where cauſes are ouerthrowne and perſons condemned for want of friends, money, or ſuch outward reſpects, though their cauſes be iuſt or perſons innocent, or not deſeruing ſuch ſeueritie of cenſure. This accepting of perſons is *iudiciorum peſtis*, the *plague of iudgements*, and flatly forbidden in Gods ſacred word, *Leuit.*19.15. *Yee ſhall not doe vnrighteouſly in iudgment, thou ſhalt not reſpect the perſon of the poore, nor honour the perſon of the mighty; but in righteouſneſſe ſhalt thou iudge thy neighbour.* Partiall pitie is not to be ſhewed to the poore and baſe, becauſe he is poore and baſe: and partiall fauour is

is not to be ſhewed to the rich and honorable, becauſe he is rich or honorable: but according to the *equitie* of the *cauſe*, muſt be the *equitie* of the *iudgment*. Prohibitions of the contrary are frequent in Gods word: *Thou ſhalt not ſpeake in a cauſe, to decline after many, to wreſt iudgement; neither ſhalt thou countenance a poore man in his* (vnrighteous) *cauſe. It is not good* (that is, it is very ill) *to accept the perſon of the wicked, to ouerthrow the righteous in iudgemẽt.* The like is found *Prov.*24.23,24. *Prov.*28.21. The Lord doth deteſt this abhominable ſinne *Eſa.*61.8. *I the Lord loue iudgment, and hate robbery for burnt offering*: that is, though a thing gotten by peruerting iudgement, were put to the beſt vſe that can be, as to a ſacrifice to God, yet God doth abhorre it. Yea the Lord *accurſeth* to the pit of Hell, ſuch as peruert the iudgment of the ſtranger, fatherleſſe, and widow *Deutr.*27. And denounceth a fearefull woe againſt them,

*Exod.*22.2,3.

*Prou.*18.5.

who iuſtifie the wicked for a reward, and take away the righteouſneſſe of the righteous from him: And for ſuch ſins God ſends moſt fearefull viſitations. *Ierem.* 5. *Amos* 6.

Whence this abhominable ſinne doth ſpring is better knowne by bad experience, then by tongue or pen can bee expreſſed. It commonly ſprowts out from the poyſoned root of *bribery*; and therefore they both are ordinarily forbidden in one period of ſpeach, by one breath of the Lord: *Thou ſhalt not reſpect perſons, nor take a gift: for a gift doth blinde the eyes of the wiſe, and peruert the words of the righteous.* and therefore couetouſneſſe, *the roote of all euill*, is the *ſtepmother of iuſtice*, as *Auguſtine* well ſpeakes.

Deut. 16. v. 18, 19, 20.

1 Tim. 6. 10.

It ariſeth alſo from many other grounds, as from loue, friendſhip, hatred or enuie, wrath, and raſh zeale, impatience, and ſuch like affections and paſſions; which blind the eye, or tranſport the will, ſo farre that the perſon

perſon affected therwith doth ſwerue from the rule of equitie and iudgement. *Let him put off the robe of a Iudge, who putteth on the cloake of a friend*; its *Ciceroes* prouerbiall ſentence. *They cannot iudge worthily of ſuch as are vnder them, who follow not the merit of the cauſes, but the hatred or loue of the perſons.*

Exuat perſonam iudicu qui induit amici.

Dignè de ſubditis iudicare nequeunt, qui non merita cauſarũ, ſed perſonarum odium & gratiam ſequuntur. Greg. moral.

Whenceſoeuer it ariſeth or whatſoeuer is the ground of it, ſure it is a great and grieuous ſin, and requires both ſpeedy and exact reformation. For the remedying whereof ſome of former times would haue cauſes propounded without *mention* of the parties: others had their Iudges *couered* with a vaile, that neither plaintiffe nor defendant ſhould come in their ſight: others did exerciſe iudgments in the night: others did iudge before the *Altars* of their *Gods*. But to omit thoſe *heathen* deuices for reformation of theſe euils, and that famous example of *Traiane* the *Emperor*, of whom it is recorded, that he

did neuer man wrong in iuſtice, neither at any time had affection or paſſion in giuing iudgment: we who are *Chriſtians* haue better grounds of reſtraint, namely, the *feare* of *God*, and the *direction* of his *word*, and the *examples* of godly and conſcionable men. Conſider two, of *Moſes* and *Samuel*, who could in good conſcience appeale to the Lord, for the cleering of their vprightneſſe and vncorrupted integritie; and whom I perſwade my ſelfe you (reuerend Iudges) do religiouſly imitate, and deſire to be like vnto. *Lord I haue not taken one Aſſe from them* (ſaith *Moſes*) *neither haue I hurt one of them.* *Deutr.* 16.15. And thus *Samuel* pleadeth for his integritie: *Behold here I am* (ſaith he to the people) *witneſſe againſt me before the Lord, and before his annoynted: whoſe Oxe haue I taken? or whoſe Aſſe haue I taken? or whom haue I defrauded? or whom haue I oppreſſed? or of whom haue I receiued any bribe to blind mine eyes there-*

Moſes.

Samuel.

therewith, and I will restore it you. And they sayd, thou hast not defrauded vs, nor oppressed vs, neyther hast thou taken ought of any mans hand. Be therefore, & continue such as you should be, and such as I doubt not but you are, *men fearing God, and hating couetousnesse.* O, let the *feare* of God be in your *hearts*, and these godly *examples* before your *eyes*, and pray with *Dauid*, for your selues, vnto God. *Lord gather not my soule with sinners, nor my life with bloudie men, in whose hands is mischiefe, and their right hand is full of bribes:* And keepe that holie resolution of *Dauid*, and thus promise vnto God; *As for mee I will walke in mine integritie: redeeme mee, and bee mercifull vnto mee.*

Exod. 18. 21.

Psal. 26. v. 9. 10. 11.

The other *impediment* and enemie of *iustice*, against which these admonitions and cautions are giuen, is *feare* of mens greatnesse, who will be offended at iustice; *yee shall not be afraid of the face of Man.*

The second impediment of iustice.

Great men are not alwayes good men: and great-good-men, are not (alwayes) ſo good, as not to defend or fauor any vnrighteous cauſe. Sometimes they grow partiall in cauſes of judgement: and if Iudges and miniſters of juſtice be fearefull to offend them, they ſhall hardly deale well for *good* cauſes of *meane* men, for feare of the *perſons* of *great* men.

Pilate hearing, and fearing, that he ſhould not bee accounted *Cæſars friend, if hee ſhould let our Sauiour Chriſt goe*, was ſo quelled with feare, that contrarie to his conſcience and his owne mouthes teſtimonie, he did adiudge our Sauiour Chriſt (though innocent) vnto a ſhamefull and opprobrious death. And, ſure it is, this *ſeruile feare* troubles the mind, diſtracts the thoughts, and corrupts iudgement, and makes the mouth to ſpeak againſt the conſcience, to cleare the wicked, to condemne the innocent. And therefore for the preuenting of ſuch feareful corruption, God required

Ioh. 19.7.12. In hominum gratiam iuſtitiam peruertit, & ius inflectit. Pluris facit imperatoris Romani quam Dei gratiam. Facit contra propria conſcientiæ teſtimonium, & oris ſui enunciatum.

required these properties in Iudges, that they should be men of *courage, fearing God, &c. The feare of God is the beginning of Wisedome*, and foundation of other most excellent vertues: Among the rest, of vndaunted *courage*, and maketh resolute in good and godly causes: whereas *hee doth easily slip aside from equitie and iustice who stands not in feare of God, but of men saith Chrysostome.* For *take away pietie, fidelitie is gone:* as we see in the *vnrighteous Iudge. Luc.* 18. v. 2.3. And as *Constantius Chlorus, Father of Constantine the Great*, did well experience in his Counsellors and Courtiers. It was *Abrahams* conclusion: *The feare of God is not in this place, therefore they will kill me.*

Exod. 18. 21. *Prou.* 1. 7.

Facile a iustitiâ deuiat qui in causis non Deum sed homines pertimescit. Chrysost.

Pietate sublatâ, fides tollitur. Cicero.

Euseb. de vitâ Constant. lib. 1. c. 12. *Gen.* 20. 11.

Wherefore (to conclude this) these pestilent impediments of equitie and iustice, this and the other, being farre remoued, by Christian courage, feare of God, and hatred of couetousnesse, I most humbly beseech you in the name of the Lord, both

Iudges and Magiſtrates, and all miniſters of iuſtice, *Lay iudgement to the rule, and righteouſneſſe to the ballance: Let iudgemet be brought forth in truth, and let the glorie of iuſtice extende it ſelfe like a flowing ſtreame.* Let iudiciall proceſſe equally proceede in hearing, ſentencing, executing of iudgement without needleſſe protraction, and vniuſt delay: and for the better inducing of your godly minds hereunto, conſider the reaſon annexed in this *Charge, for the iudgement is Gods.*

Iſai. 28. 17.

IV. Point. Reaſons for obſeruation of the Iniunctions, and Cautions.

[*For the iudgement is Gods*] The reaſon why Iudges and all miniſters of iuſtice ought to performe theſe *iniunctions*, and obſerue theſe *cautions*, in iudiciall proceſſe is this; *for the iudgement is Gods:* yea, and to annexe vnto this that which was premiſed: *The Charge is from God.*

The firſt reaſon.

And to ſpeake hereof but paraphraſtically for breuities ſake: [*The iudgement is Gods*]

1 The *Ordinance* of iudgement is

is the ordination of God, by his wise and immutable counsell and decree. *Rom.* 13. and must be vsed faithfully, as the ordinance of God.

2 The *Person* who iudgeth is a person sent of God, by his most wise and prouident dispensation. God made thee a Iudge, Magistrate, Iuror, or Witnesse, by his gracious *ordination*, or prouident *permission*, and thou must deale faithfully as the minister of God.

3 The *Person* sustayned by the Iudge is Gods: for he is the *delegate* deputie and minister of God: and though for nature, condition, and qualitie, but a man: yet for *title* and *office*, and *authoritie*, a God, and must square his iudgement to the will of God. *Psal.* 82.

4 The *causes* and *persons* to bee iudged, are Gods, mans life is Gods, his goods are Gods, the man is Gods, and God is his Father, or master, but surely his owner, and must be dealt well withall, as belonging to God.

5 The

5 The iudgement, as (if it be righteous) God did effect it, ſo will hee approue, auow, defend, and reward it. and therefore it muſt bee ſuch as may be auowed of God.

The ſecond reaſon.

And now to end where I firſt did beginne: *The Charge is from God*, for the doing of iuſtice, and he doth enioyne and require the doing of iudgement; and wil one day call to account for what is done, not onely by his *Deputie*, that *little God* of thy *Conſcience*, who wil ſentence thee ſecretly, if thou doe amiſſe.

Eccl. 5.7.

But *he that is higher than the higheſt*, the great *God*, and our *Sauiour* Ieſus Chriſt, *the righteous Iudge of quicke and dead*, will iudge thee openly before his dreadfull Tribunal. *God will bring to iudgement euery worke, with euery ſecret thing, whether it bee good, or whether it bee euill*, Eccleſ. 12. 14. And what will he *then doe with vnrighteous iudgements, who will then iudge euen iuſtice it ſelfe, who will recite to euery one his owne deſerts?*

Et quid faciet de iniuſtis iudicijs; qui ipſas quoq; iuſticias iudicabit, qui cuique merita recitabit? Bern. Epiſt.

The

The Lord of iudgement will come, will come I say, and there pure hearts shall preuayle more than subtile words, good conscience than full purses: when the Iudge shall not bee deceiued with wordes, nor ledde with rewards: but will giue to *euery man according to his workes*: and *euery one shall receiue according to that he hath done in the bodie, whether it be good or euill.*

Veniet, inquam, veniet Dominus iudicij, vbi plus valebunt pura corda quam astuta verba, conscientia bona quam marsupia plena: vbi iudex non falletur verbis, non flectetur donis. 2. Cor. 5. 10.

Thus by Gods gracious assistance and your Christian attention, I haue spoken somewhat of the principall parts and passages of this charge of God, and the King, to Iudges and Magistrates, and all ministers of iustice: as namely, first of their instructions and iniunctions for right hearing and iudging: secondly, of the persons whose causes are to bee heard and iudged: thirdly, of the admonitions and cautions against pestilent impediments which are frequent enemies to equitie and iustice, accepting of persons, and feare of mens faces: fourthly, of reasons to enforce

enforce the performance of the instructions and obseruation of the *cautions?* There onely remaines *the case of reseruation.*

Now that iudiciall processe may bee rightly conformed vnto this charge of God and the King, it must be ordered with great counsell and wisedome, and dependeth much vpon the wisedome and faithfulnesse of all the ministers and instruments of iustice; but lyeth most in the wise discretion and religion of the Iudge; who must wisely consider all reasons and circumstances, for the prudent ordering of such important affaires, both in matters of controuersie, and punishment of crimes. In both which I would intreat you from the Lord, that you would haue most speciall regard that there bee mature progresse, in iudiciall processe: 2. and also equall moderation in punishment of malefactors.

In iudiciall processe, two things principally to bee respected.

1. Mature progresse.

The former of these, which I would commend vnto your care, is mature

mature progreſſe in iudiciall proceſſe, in hearing and ſentencing, and executing of ſentence, with all readie diſpatch and conuenient ſpeed, without procraſtination, or vniuſt delay.

The Lord himſelfe enioynes this vnto Iudges. *Deutr.* 25. 1. *If there be a controuerſie betweene men, and they come into iudgement, that the Iudges may iudge them, then ſhall they iuſtifie the righteous, and condemne the wicked.* [*Then*] that is, maturely without needleſſe delay. Our *Sauiour*, in the Parable, doth note it as a marke of an vniuſt Iudge, who is void of all feare of God, and regard of man, that he deferred to doe iuſtice to the importunate widdow. *Luc.* 18.

Iudges and Magiſtrates muſt in no wiſe bee like *vnhappie Felix*, who left *Paul* in bonds in hope of bribes: but like vnto *Feſtus* his more equall *Succeſſor*, who hearing that *Paul* was kept bound at Ceſaria, promiſed to goe *verie ſhortly* thither, and *the very next* *Act.* 24. 27.

Act. 25. 6.

next day after his comming thither, conuented him, examined and handled his cause, though he fayled in the processe of this businesse, for feare of the Iewes.

This vniust delay of iudiciall processe, hath beene an old and auncient corruption: for reformation whereof, sundry *Decrees* were made by those worthie Emperours, *Constantine*, *Iustinian*, *Gratian*, *Valentinian*, and *Theodosius*, against procraftination and dilatory courses, in matters both of controuersie and crime.

L. Properandi C. de iudicijs Iustin. Imperat.

In matters of *Controuersie*, thus *Iustinian* doth define. *Properandum nobis visum est ne lites penè fiant immortales, et vitæ hominum modum excedant.* *In causes of controuersie it seemes good to vs that haue bee made, least causes depending become immortall, and exceed the measure of the life of man.* And what a great and grieuous both sin and shame is it, especially in Christian common-wealths, that the *Sonne*, the *aged Sonne*, should

Cause pecuniarum, et ciuiles omnes, quocunque nomine veniant, & cuiuscunque sint quantitatis, non vlteriùs

not

not liue long enough, to ſee an end of the tedious ſuits of his intangled Father, who trode a maze in his endleſſe proſecution of Law, for the relieuing of his ſtill vnrighted wrongs?

In matters of *Crime*, ſo ſaide the auncient Lawes, *ſtatim debet quæſtio fieri, vt noxius puniatur, innocens abſoluatur. Arraignements ought ſpeedily to be made, that the guilty may bee puniſhed, the innocent abſolued:* and againe, *Concerning thoſe who are in priſon, we doe by expreſſe definition enact, that eyther ſpeedy puniſhment ſhall make away the* guiltie, or continuall impriſonment ſhall not waſt the innocent.

Our Lawes no doubt for deciſion of controuerſies are both as perfect and expreſſe as theſe: and therefore is it not a fowle offence, and a fearefull ſinne in any Iudges or Lawyers, or other miniſters of iuſtice, to ſet to ſale their heads and tongues, their wits and words, their places and functions, for the warping and weauing

quam ad trienny ſpacium extendi iubentur. ibid.

Sic C. L. 1. de cuſtodia reorum Conſtantinus imp. edicit.

De his ques tenet carcer incluſos aperta definitione ſancimus, vt aut conuictos velox pœna ſubducat, aut liberandos cuſtodia diuturna non maceret. Imp. p. p. p. Gratian. Valentia. & Theodoſius, decernunt.

uing on of the webbe of controuersies,& protracting of causes, through needlesse delay, for priuate respect of gayne, fauour, or enuy; without due regard to common equitie, or publique tranquillitie, or weale and welfare of Church, and Common-weale.

Reasons against vniust delay of iudgment.

In this case its too true; *Delaye breedes danger:* daunger of *Vndoing* to the partie *oppressed:* danger of *presuming*, to the person *oppressing:* danger of hurt to the *party procuring* delay: and danger of *ruine* to Church and Common-weale.

Reas. 1.

It grieues the heart, & excruciates the soule of the partie oppressed, to beare such a cruell and detestable iniury, when vnder plausible pretence of Law, iudgement, and *iustice*, hee is not onely delayed from his right, and spends himselfe in prosecuting for it: but withall incurres suspicion of one wicked and vniust, as if hee himselfe were the doer of the wrong. He that shall thus oppresse the iust in

in his righteous cauſe, doth touch the apple of Gods owne eye, which is a fearefull and dangerous ſinne, and prouoketh the Lord to reuenge the oppreſſed.

Griefe conſtraineth the iuſt, who finde no releeſe, by iuſt order of law, to take vniuſt and vnlawfull courſes, as calumnies, quarrels, contentions and brawles, to releeue and remedie their vnrighted wrongs; and ſometimes, through impotencie of humane affections (eſpecially in women more conquerable of paſſions) poyſonings, and murthers of their oppreſſing aduerſaries; and ſo with danger of their lands and goods, they indanger the loſſe both of bodies and ſoules; and ſhall not the vnjuſt occaſioner of ſuch euils communicate in the ſinne, and partake in the miſerie? 2

Hereby is a wide flood gate opened and inlarged, whereby hatred, contentions and capitall enmities are propagated and diffuſed by part- 3

ners and kindred, ouer whole families, villages, Cities, Countries, and Kingdomes, which administer matter for mutinies and slaughters. *For the contentions of the proud are shedding of blood: and their scouldings are greeuous to heare.* And is not hence danger of ruine to the State? And who is the cause of all this mischiefe, but hinderers and peruerters of equitie and iustice?

Sirach. 27. 16.

4 Or if such outward mischiefe do not hence ensue, yet hereby is Gods worship and exercises of religion (as by an euill spirit and hellish furie of discord) disturbed and poysoned, while mens minds are distracted and exasperated with continued lawings, and dissentions: so that they can neither heare the word with attention and profit; nor pray priuately or publikely with deuotion or zeale: nor receiue the Sacraments with any quiet or comfort. And shall not the vnjust hinderers of iudiciall processe, from finall deciding of actions and contro-

controuerſies, ſtand guilty, before the Tribunall of God, as diſturbers of diuine worſhip, and breakers of ſpirituall peace?

Hereby is iuſtice it ſelfe profanely abuſed, and *God* himſelfe the *God of iuſtice*, and preſcriber of equity, moſt impiouſly contemned & monſtrouſly diſhonoured, as if he himſelfe were vnequall or vnjuſt. For when his Delegates and Deputies do peruert judgment, they make God himſelfe (aſmuch as in them lies) to become author and approuer of their deteſtable impietie. 5

All Iudges, Counſellors, Attourneyes, Sollicitors, Sheriffes, Iurors or witneſſes, or other miniſters of iuſtice, who by corrupt abuſe of Gods ſacred ordinance of iuſtice, open a flood-gate, or window to ſuch enormities and euils, ſhall themſelues be conuented (vnleſſe they repent) before the moſt dreadfull Tribunall of God, there to be conuicted and ſentenced for their fearfull offences. 6

7 All innocent persons, who haue bin oppressed, yet by piety restrained from vnjust reuenge, and preserued, by Gods grace, from vnlawfull remedies, shall yet in priuate put vp their complaints with sighes and groanes to the Iudge of Heauen, who as their kind patrone and powerfull protector shall take vengeance and punishment on such malefactors, as haue not releeued but vnjustly oppressed (and that vnder pretence of law) such helpless ones in their distresses and miseries. The *sonne* of *Syrach* in his *Ecclesiasticus* (though it be not *Canonicall*) describes this very well, saying. "The Lord is Iudge
Eccles. 35. 7. 12, "and regardeth no mans person —
13. "but heareth the prayer of the op-
14, "pressed. Hee despiseth not the
"prayer of the fatherlesse, nor the
"widow when she powreth out her
15. "prayer. Do not the teares runne
"downe the widowes cheekes? and
"her cry is against him that causeth
"them. (for from her cheekes they
"doe

" doe go vp to heauen, and the Lord " which heareth them doth accept them. Yea the *Lord* in the *Scripture* is frequent in denouncing of punishments and iudgments on peruerters of iustice. *Ier.*5.29. *Amos* 6. 12,13. *Habac.*1. 3,4,5. and elſe where.

Theſe things being ſo (beloued in the Lord) that graue aduice and godly exhortation of King *Iehoſaphat* to Iudges appointed by him, is worthy to be painted on the walls of all Courts and Iudgment-ſeats; yea to be ingrauen in the hearts of all Iudges and Magiſtrates and miniſters of Iuſtice 2 *Chron.*19.6. *Take heede what yee do; for yee iudge not for man but for the Lord; who is with you in the iudgment. Wherefore now let the feare of the Lord be vpon you: take heede and do it: for there is no iniquitie with the Lord our God, nor reſpect of perſons, nor taking of gifts.* and remember this charge of the Lord and Moſes: *Heare the cauſes of your brethren and iudge righteouſly.*

2. Equall moderation of iuſtice.

And thus much of the firſt thing much to be reſpected in iudiciall proceſſe, which is *mature progreſſe*, or ſpeedy proceeding therein: Now followeth the *ſecond*, which is *mitigation or moderation of the ſeueritie of iuſtice*. And to ſpeake of it as far as it extends to the exerciſe of ciuill diſcipline and puniſhment of malefactors. As iudgment muſt proceede according to the preſcript of law: ſo muſt great wiſdome, diſcretion, and religion be vſed that it be ſo guided between iuſt *clemencie* and needfull *ſeueritie*, that the ſentence be equall, and tend to publike good.

Præmijs & pœnis. Solon. Quàndo ciues omnes pœnarũ metu à maleficijs abſtinent, & beneficiorũ præmijs inuitati officium facere ſtudẽt. Demoſt. ὅ τε μὲ τὸ κακὸς πολλαχοῦ, καὶ τὸς ἀγαθὸς ποιῶν.

The Common-weale (as one well ſaid) is conteined in two things, *rewards* and *puniſhments*. and then doth it flouriſh (as another obſerued) *when all the Citizens or ſubiects thereof abſtaine from euill-doing for feare of puniſhment, and are inuited to do dutie in hope of reward:* and that it may flouriſh, its the dutie of the Magiſtrate to puniſh the bad, and to

to reward the good.

Its rather to be wiſhed than hoped, in this our corrupt eſtate, that all would abſtaine from *vice* for *loue* of *vertue*, and *hope* of *reward*, and for good *conſcience* rather than for *feare* of puniſhment: but ſo ſeruile and vicious is the nature of man, that it hath neede to be curbed and reſtrained from euill, by threat and execution of correction and puniſhment: and therefore puniſhments are prouided, *that euill ones might be taken out of the way, if they will needs do harme, or may be amended if through neglect they did amiſſe.*

Meliores ſunt quos arrigit amor, ſed plures quos corrigit timor.

Vt his tollantur mali ſi eſſe nocentes volunt, aut emendentur ſi per negligentiam aliquid admiſerint. Sen. c. de irâ lib. 1. L. reſpiciendum de pœnis.

In proceeding to iudgement againſt malefactors, mercy and iuſtice muſt meete together, clemencie and ſeueritie muſt kiſſe each other. There muſt be a mercifull *clemencie*, yet ioyned with *iuſtice*, and a iuſt *ſeueritie*, yet moderated with *equitie*, leſt ſtrict law proue flat iniuſtice: *neither is any ſweetneſſe more ſeemely, or harmonie more profitable, than is ſeueritie ioyned*

Nec vlla ſuauitas cominior, aut vtilior harmonia, quam ſeueritas cum comitate cõiuncta. Plutarch. in Phocion.

with humanitie. Iudgments thus *moderated*, do *please both God and man.*

— *Moderata placẽt hominꝫ deoꝫq;.*

The *Stoickes* assertion is not consonant to *reason*, that all sinnes are equall: nor *Dracoes* bloody lawes consonant to *iustice*, that all crimes are to be punished with death. there are degrees of sins, and of punishments: *Spare must be made euen of the basest blood.* Life is deare, death terrible, and the liues of men must be precious in their eyes, who deale in matters of life and death. And a *verdict* of death must not be brought in vpon *slight suspicions* and *vncertaine* proofes. *It were better a guilty person were causlesly absolued, then that the innocent should be vniustly condemned*, that is a sinne, but this is impiety, a much more heynous, and more grieuous sin. Which I desire the Iurors would looke vnto, who, *not seldome*, offend, and that grosly, in this kind, in bringing within the compasse of death, such as of right ought to be acquitted. In this case that

Parcimonia debet esse etiam vilissimi sanguinis. Senec. de clem: lib. 1.

that rule is safe and good: *Its better to haue respect to iustice and equitie, than to strict law.* Rashnes in condemning men is to be auoyded: *for he almost condemnes willingly that doth it quickly.* and too much seueritie must euer be abandoned, for he doth *punish vniustly that punisheth too much.*

Placuit in omnibus rebus potiorem esse iustitiæ æquitatisq; quam stricti iuris rationem. lib. 1. C. de iudiciis.

Yet for all this there must not be such *clemency* as doth prejudice *equitie:* for so, sin shall abound, and if *iustice presse not the vniust, then shall the iust be oppressed with iniustice:* and the harmelesse, *help-lesse*, and innocent sheepe shall be exposed to the rage of wolues and rauenors. Too much clemencie breedeth impunitie, and causeth liberty and licentiousnes in sin. In this case the Iudge must not be milder than the law: for wholsome seueritie, which common reason doth suggest, and publike order exacteth, doth excell the vaine shew of clemencie & mercy. There is both a punishing mercy, and a sparing

ring cruelty. *Such clemency is but a mercileſſe pitty, as armes malefactors againſt the innocent. He hurts the good that ſpares the bad.* and therefore its well concluded by *Iuſtinian* in his *Nouell Conſtitutions: It is not inhumanitie, but rather ſpeciall humanitie, when many are ſaued by the puniſhment of a few.* Iudgment muſt paſſe with needfull ſeueritie againſt notorious and euident malefactors; as for *treaſons, perſonings, murthers*, and the like heynous crimes; *vt pœna ad paucos, metus ad multos perueniat: That puniſhment may fall on a few, feare on many.* For ſome few muſt needs be puniſhed, that more may be terrified, and all may be amended, or reſtrained from euill. This is the ſentence of the Lord himſelfe againſt a falſe-witneſſe-bearer: *If the witneſſe be a falſe witneſſe, and haue teſtified falſhood againſt his brother: then ſhall ye do vnto him, as he had thought to haue done vnto his brother. So ſhalt thou put away the euill from among you; and thoſe*

Bonis nocet qui malis parcit. Ioſ. Scalig. Non eſt inhumanitas ſed potius ſumma quædam eſt humanitas, cum multi pauorum animaduerſione ſaluantur.

Deutr. 19. 16, 17, 18, 19, 20

thoſe which remaine ſhall heare and feare, and from hence-forth ſhall commit no ſuch euill among you. And thy eye ſhall not pitie, but life ſhall go for life --. and the morall law doth eternally eſtabliſh that the *wilfull murtherer* ſhould die the death. *Gen.9.6.*

I acknowledge indeed that famous Emperors haue bene much admired for clemencie and pitie; as *Titus Veſpaſian*, who wept for juſt executions. *Suet. Veſp.* and whereas the Emperors themſelues vſed then to iudge of life and death, he was hardly drawne to giue iudgment at all, and vtterly *vnwilling* to condemne any to death. *Tranquill. in Tito.* *Mauricius*, who by his good will would not haue ſo much as a Traytor die. *Euagr. l.6. c.1.* *Auguſtus*, in prudence ſecond to none, yet being to examine a parricide, began thus: *Certè patrem non occidiſti:* Surely thou haſt not ſlaine thy father. In which words he did not onely inſtruct the guilty perſon. what he ſhould anſwer to the Prince and Iudge, but alſo in admirable humanitie *Ioan. Bod. de rep. lib.4 cap. 6.*

manitie did pardon the parricide. *Theodoſius*, who was wont to wiſh that he could recall to life ſuch as had wronged him. *Nero* himſelfe, otherwaies cruell, who being asked to ſubſcribe to a ſentence of death, gaue this anſwer, *Vtinam literas neſcirem*, I would I could not tell how to write.

Soer. lib. 7. c. 22.

Nihil eſt quod Imperatorem melius commendat gentibus, quam Clementia. Antoninus ad Coniugem. Valcatius in vita Caſſij.

But be it granted that Clemency is a princely vertue (as the King of Bees is without a ſting) and Bounty another, which winnes much loue: for which cauſe *Titus Veſpaſian* was accounted the loue and delight of mankind: yet exceſſe herein is no vertue but a vice, when it hinders the current of needfull execution of iuſtice. And nothing is ſo contrary to the office of a Iudge as ſuch mercy, when the Iudge becomes more mild than law in ſparing the execution of notorious malefactors. Such impunitie of groſſe offences, is (as one ſaith) a moſt certaine argument of the periſhing eſtate of a Common-

wealth.

wealth. Puniſhments duely executed are the ſinewes of the weale-publike.

ὡς ἂν ἄφῃ τὸ πολιτείας νεῦρα ἡ ἐπιείκεια καὶ τὸ ἀνήκεστον. Demoſthenes.

True, indeed, in caſes of difficultie there muſt be inclination to *mercy*. In leſſer offences (once or ſeldome committed) mitigation of *ſeueritie*. *Frequenter qui peccant & lugent, veniam vix merentur: Such as often offend though they mourne for their fault, yet ſcarce deſerue pardon* ſaith *Auguſtine*.

And Chriſtian compaſſion in ſeueritie of cenſure commiſerating the miſery of a guilty perſon, beſeemes a Chriſtian Iudge, who (when he pronounceth the ſentence of death) may with *Auguſtus, ex imo pectore ſuſpiria ducere*; fetch deepe ſighes from the bottom of his heart, and be more ſorry for them, than they are for themſelues: yet law muſt haue courſe, iuſtice muſt be done, that euill may thereby be taken away, that others that heare may feare, and doe no more ſo preſumptuouſly; and that

Seneca in lib. de Clementia.

that the land ſtand not before God guilty of blood: leſt Gods ſword be vnſheathed, and his hand ſtrengthned to the reuenging of ſo great and ſo ſinfull conniuencies, when impunitie is permitted to bloody crying ſinnes. In few words to conclude this point: As thoſe Iudges or Magiſtrates are not to be imitated, who in acerbitie of puniſhments affect the opinion of ſeueritie: ſo neither thoſe who by too much facilitie ſeeke loue and affect the opinion of lenitie. Both theſe are faults in the extreme, ſwaruing from the office of a Iudge, as auncient lawes do teach and declare. Equitie walkes in the golden meane betweene rigorous ſeueritie which puniſheth any too much; and cruell mercy which ſpareth a few to the hurt of many.

l. reſpiciendum de pœnis.

Application of the doctrine to ſundry orders of Perſons.

Now it remaineth that I ſhould apply this charge, for iuſtice, of God and the King, giuen by Moſes to the Iudges of Iſrael, to our Honorable and Reuerend Iudges here preſent: neither

neither to our Reuerend Iudges alone, but to all thoſe miniſters and inſtruments of iuſtice (ſundry perſons of different qualitie) who concurre as aſſiſtants in the diſpatch of this buſines. But becauſe my ſpeach hath already paſſed the bounds of the allotted time, I ſeeme vrged by neceſſitie to forbeare the ſame, and to commend the particular application thereof, to your priuate, deuout and godly meditations. yet hoping your wiſdomes will redeeme a litle time, by cutting off ſome leſſer occaſions; I will make bold to ſpeake a litle to the principall of thoſe perſons, whom this charge doth ſo neerly concerne.

My Honorable Lords, you the reuerend Iudges of theſe Aſſizes, I ſhall not need to ſpeake much vnto you: becauſe the Lord in mercy hath beſtowed vpon you (to ſpeake (as I am well perſwaded) without flatterie) a great meaſure of wiſdom & piety to deale in matters of iudgment

1 To Iudges.

ment iuſtly and conſcionably, and you haue right well approued both to King and Country your fidelitie and ſinceritie in execution of your function; in ſo much as we bleſſe God for you, and pray to God to bleſſe you, that you alſo may continue a bleſſing vnto vs. Yet giue me leaue to put you in minde of this your charge from God & the King: Heare the cauſes between your brethren, and iudge righteouſly. Your wiſdome and long experience haue taught you well, that that of *Chryſoſtome* is very true: *Ipſam cauſæ inuenire iuſtitiam grande opus: inventam verò nulla iniquitate corrumpere laborioſiſſimum: To find out the very iuſtice of the cauſe is a great worke.* and therefore you had need to be very circumſpect therein. and *when iuſtice found out, then to corrupt it by no iniquitie is a moſt laborious thing*, and therefore you had neede to be very vpright therein.

Lib. 3. de Sacerdotali dignit. cap. 18.

And that I may ioyne with the reuerend

reuerend Iudges, thoſe worthie magiſtrates, the Iuſtices of Peace: you well vnderſtand what a fearefull ſin it is *to turne iudgement into Wormewood, and to leaue of righteouſneſſe in the Earth. To turne iudgement into gall, and the fruit of righteouſneſſe into Wormewood. To ouerpaſſe the deedes of the Wicked, to execute no iudgement, no not the iudgement of the fatherleſſe, to execute no iudgement for the poore.* What a fearefull ſinne were it for any of you to ſuffer through your neglect or partiality, *iuſt iudgement neuer to goe forth: but the wicked to compaſſe about the righteous, and wrong iudgement to proceed?* Theſe are fearefull ſinnes in Iudges and magiſtrates, for which the Lord did ſharpely threaten, and ſeuerely puniſh his owne people.

2. To Iuſtices of Peace.

Amos. 5. 7.

Amos 6. 12.

Ier. 5. 28.

Heb. 1. 4.

Wherefore, I earneſtly beſeech you from the Lord, continue ſtill, if you haue begun, *to be men of courage, fearing God, dealing truely, and hating couetouſneſſe.* And *ſeeke iudgement,*

Exod. 18. *Eſay.* 1. 17.

relieue the oppreſſed, iudge the fatherleſſe, and defend the widow, that you may ſafely preuent ſuch fearefull ſin and wofull miſerie.

Your calling is honourable, ordained of God, as a ſoueraigne antidote againſt euill, and promoter of good: Your perſons are ſelected to this function by God. The perſon you ſuſteine is the Sonne of God, who hath honoured you with the title and authoritie of God, who is preſent as chiefe Preſident in the aſſemblies of Gods. Your iudgement which you giue, is the iudgement of God, and he will auow, and defend both it and you, if it be iuſt: hee will renounce both it and you, if by your wit, or will, it be vnjuſt, as vnbeſeeming his Maieſtie, who is iuſtice it ſelfe.

3 To Counſellors.

You the Aduocates of juſtice, as Counſellors and Pleaders; I beſeech you to endeuour in the feare of God to cleare your ſelues of thoſe two imputations which ſometimes are layd

vpon

vpon ſome of you: how iuſtly vpon any of you that are preſent, not I, but God and your owne conſciences can tell you: namely firſt, that there is no cauſe ſo bad, but by your ſhifts and pretences you can make it ſeeme good: ſecondly, nor no cauſe ſo good, but by your vnskilfulneſſe or vnfaithfulneſſe in handling, you can make it ſeeme bad.

Conſider (I beſeech you) that it is a verie fowle thing reſolutely to defend what cauſe you know not to be iuſt: but when you perceiue & know it to be vniuſt, then by querkes and deuiſes to cloake and ouer-ſhadow falſehood, and wrong, and (againſt conſcience) to out-face both truth and iuſtice, in the face of the Court, and Iudgement-Seat, before Gods Miniſter of Iuſtice, yea, God himſelfe, it is a moſt horrible and fearefull ſinne. This were to call *good, euill; and euill, good: to iuſtifie the wicked for a reward, and to take away the righteouſneſſe of the righteous*

Turpe eſt defendere quod non mihi conſtiterit iuſtum eſſe. Gregor.

Eſa. 5. 23.

from him: yea to draw iniquitie with cords of vanitie, and sinne as with cart-ropes. Against which manie fearefull woes are denounced. Remember (I pray you) that worthie example of the learned and vpright Lawyer *Papinian*, who being desired by the Emperour *Antoninus Caracalla*, to defend his *fratricide* of his brother *Geta*, answered boldly: *Non tam facile est excusare fratricidiū quam facere.* Its not so easie to defend fratricide, as to doe it. And he would rather dye, thā vndertake the defēce of an vniust and vnrighteous cause.

Spartian.

And if you haue taken on you the defence of a good cause, doe not by your ignorance ouer-throw it, or by your vnfaithfulnesse betray it, and make your poore client pay ful dearly for your ouersight in formes of prosecution.

But be aduertised (I pray you) by vertue of this charge, to heare and iudge righteously. Informe your selues throughly in the state of the cause,

cauſe, and deale faithfully with your Client in relating what you thinke of the equitie of the cauſe, and iſſue of the controuerſie. And if it bee bad, let it not by any your meanes be proſecuted with coſt, loſt with infamie, or wonne by iniquitie, and flat injuſtice.

If good, let it not want good ſucceſſe, by your neglect or ouerſight, or want of countenance and fidelitie in pleading: or become more coſtly, by your procraſtinations. But vſe your beſt endeauour, that right may be found with moderate expenſes: that law may proue a ſpeciall and ſpeedy remedy of wrongs, and not a trap or engine to catch and inſnare men; as men of all ſorts doe commonly complayne. Then though your poore Client doe not enrich you with his fees, yet ſhall you bee no looſers when you haue made vp your reckonings; but what is wanting in the poore Clients ſmall fees, ſhall God himſelfe recompence in

your great accounts, and bestow vpon you not a temporall garland, but an eternal crowne of glorie for your vertue and well-doing to the people of God.

ἀρετῆς ἕνεκα καὶ καλοκαγαθίας εἰς τὸν δῆμον.

4. To Witnesses.

You Witnesses, who shall for true testimonie to the truth, take a solemne oath of God and the King, and calling vpon the glorious name of God, vow damnation to your soules, if you speake not truth. Know that a feareful curse is gone out from the Lord, vpon all such as shall so solemnely take his glorious name in vaine.

Chrysost. in mat. 5. & est. 22. q 5 can. quicunque.

A false Swearer is guilty two waies, both because he takes Gods name in vaine, and because he takes his neighbour by deceit: yea a false witnesse is obnoxious, and offends against God, whom hee contemneth; the Iudge, whom he seduceth; the partie, whom he wrongeth by his false testimonie; yea, to his family, which he hurteth; and to his owne Soule, which he condemneth.

O be

O be not (I beſeech you) ſo trayterous to God, ſo treacherous to the Iudge, ſo iniurious to your brethren, ſo hurtfull to your poſteritie, ſo deſperately prodigall of the bloud of your owne ſoules, as hauing layed them to God for pawnes of truth, you will wittingly, and willingly, ſweare, and forſweare, againſt God and truth, King and Iudge, neighbour and familie, and your owne ſelues, as lewd, and godleſſe, and graceleſſe ſonnes of *Belial*.

But beeing called hither by God and the King, to this ſeruice of your Countrey (all you that haue taken or are to take an oth) *ſweare in truth, in iudgement, and righteouſneſſe*. Theſe three, if they be wanting, its not ſo much an oath as a perjurie. Diſcharge your oathes vnto the Lord. Be not ſo ſilly as not to conceiue the truth: nor ſo forgetfull as not to remember truth: nor ſo ſubtile as to deceiue both others and your ſelues by falſe witneſſe-bearing againſt the *Ier.4.22.*

truth. Know what you teſtifie: teſtifie what you know. The whole truth, and nothing but the truth. The whole truth: be not afraid of the face of any great man, who may ſit on your skirts for ſpeaking the truth. Nothing but the truth: doe not accept mens perſons in iudgement. Be not corrupted with friendſhip, nor ſuborned with reward. Shake off vaine feare, caſt off vaine hope. Witneſſe for ſmall aſwell as for great: for Stranger aſwell as for brother: giue a playne teſtimonie to truth and veritie: So ſhall you haue the teſtimonie of honeſtie for your credite among men: The teſtimony of good conſcience for comfort in your ſelues: and teſtimonie from Chriſt at the day of the great Aſſiſe, as fit to inhabite in his holy mountaine for euer.

5. *To Queſtmen, and Iurors.*

The charge of God and the King to all Queſt-men, and Iurors, is the ſame in effect with that of the Witneſſes, that they heare and giue verdicts

dicts righteouſly, diſcharging their oathes vnto the Lord.

Far be it from you (my brethren) to be ſuch as ſome common Iurors are, of ſome, ſaid to be; ſo quicke of conceit, as that they know the caſe before they heare it, & ſo readie of reſolution, that they know which way their verdict ſhall goe, aſſoone as they know the partie whom they would pleaſure or pleaſe, to bee the plaintife, or the defendant, before the cauſe bee opened, or euidence produced. But as the Law doth preſume you to bee Gentlemen of choyce for wiſedome and integritie, and yeomen of good note for truth and honeſtie, experienced in Law-courſes, and caſes to bee tryed: ſo be diligent in ſifting and examining all proofes and euidences, readie to conceiue and acknowledge apparant equitie, and conſcionable in bringing in an approued verdict, not partiall nor vnequall in hope of reward, or for feare of daunger: for fauour

to

to your friends, or enuy to your aduerſaries: but ſuch as may be allowed of God and men, to your credite and comfort, and the publique good.

6. To the body of the Countrey.

Laſtly, you, my brethren, the bodie of the Countrey, who ſeeke in theſe places of iudgement, the face the Iudge, to haue your cauſes tryed in matters of controuerſie; or elſe are brought hither to be iudged in matters of crime. Follow peace with all men, and holineſſe, without which no man ſhall ſee the Lord. Whatſoeuer you would that men ſhould do vnto you, euen ſo doe yee to them.

1. Pet. 2. 17. Pſal. 34. 13. 1. Pet. 3. 11.

For matter of crime, take thoſe exhortations: Feare God: honour the King: Eſchew euill, and doe good: Practiſe pietie toward God, equitie toward men: Liue holily as good Chriſtians in a Chriſtian Church: liue blameleſſely as good ſubiects in a Chriſtian Common-wealth. Auoid thoſe capitall crimes, and ſhameſull courſes, which bring men to cenſure before

before these iudgement seats. And, to speake particularly, If thou wilt not bee afraid of the power of the magistrate, doe that which is good, and thou shalt haue prayse of the same, whosoeuer thou art. But if thou doe euill, then be afraid; for he beareth not the sword in vaine: for hee is the minister of God, a reuenger to execute wrath vpon him which doth euill. Art thou then a traytor to the King or Common-wealth, a wilfull murtherer or poysoner of thy brother: Then the sword of iustice must be sheathed in thy bloud, that euill may be taken away: that the land be not guilty of thy foule offence: that others may heare and feare: that sinne may bee punished in thee, and preuented in other that heare or see thee. *Rom.13.3.*

If thou receiue censure for some smaller offence, learne by this thy censure to amend thy life, lest a worse thing hereafter befall thee; for thy iterating of thy sinne, will increase

increaſe thy puniſhment.

In caſe of controuerſie, I beſeech you all to obſerue theſe rules: ſeeke peace, and follow after it: follow peace with all men. Defraud not one another. And if controuerſies ariſe, vſe all good meanes for the ſpeedie compounding of them, that the Iudgement-ſeat be not troubled with euery trifling brawle, and needleſſe ſuite.

Publicè intereſt vt lites iniuſtæ atq; inanes coerceantur; ne Magiſtratus querelis atque cauſis nihils occupetur, neue ciues temerè inter ſe rixentur, pacemque turbent. L. 21. ff. ſi certum petatur.

And whereas none are more readie than you to cry out of Lawyers, Atturneys, and ſuch men, as vnconſcionable in peruerting of iuſtice, as vnreaſonable extortioners, and extorters of fees, as defrauders and vndoers of the Common-weale: ſcraping to themſelues the fat of the land &c. Take heed that the fault and cauſe of theſe euils, doe not firſt iſſue and ſpring out from your ſelues; from your peeuiſh and wrongfull and reuengefull diſpoſitions. Whoſoeuer thou art therefore that complayneſt of others, take heed leſt the fault

fault be found in thy ſelfe. Proſecute no bad cauſe, of hatred to hurt another, but onely good cauſes, and that of neceſſitie to relieue thy ſelfe. Packe no Iuries. Suborne no witneſſes. Bribe no Iudges, Lawyers, nor miniſters of juſtice: vſe no calumnies, forgeries, or vnjuſt protractions, or vn-warrantable practiſes for the effecting of thy purpoſes in vnlawfull proceedings: for if it fall out thou be juſtly caſt in thy bad cauſe, then ſhalt thou beare an heauie burden of iuſt puniſhment for thy wilfull proſecution of thy vnrighteous ſuit. Or if by force or fraud thou preuayle againſt equitie, then (which is worſe) thou burdeneſt thy ſelfe with the fearefull guilt of double iniquitie. And though thou get the day in the place of iudgement on earth; yet ſhalt thou looſe the day at Gods Iudgement-ſeat in Heauen.

Application to all ioyntly.

And now at length to grow to a finall concluſion of all; theſe things being ſo; as *Iehoſaphat* that moſt worthy

worthy ſeruant of God did charge thoſe Iudges whom he had made: ſo do I a poore Miniſter of Chriſt, in the name of the Lord charge you all that haue the leaſt finger in matters of iuſtice (as Reuerend Iudges, worthy Iuſtices, Counſellors, Iurors, witneſſes, and the reſt) *Take heed what yee doe: for yee iudge not for man, but for the Lord, who is with you in the iudgement. Wherefore now let the feare of the Lord be vpon you, take heed and do it: for there is no iniquitie with the Lord our God, nor reſpect of perſons, nor taking of gifts.* And as *Moſes* to theſe Iudges of Iſrael in this place: *Heare the cauſes between your brethren and iudge righteouſly betweene euery man and his brother, and the ſtranger that is with him. Yee ſhall not reſpect perſons in iudgement; but you ſhall heare the ſmall aſwell as the great. you ſhall not be afraid of the face of man: for the iudgment is Gods.*

2. *Chron.* 19. 6. 7.

V. and laſt poynt. Of reſeruation of iudgement.

Now I ſhould proceed to the *caſe of reſeruation: And if the cauſe be*

too

too hard for you bring it vnto me, and I will heare of it. But of this I say no more but this. That whereas these causes and matters of iudgment are farre too great for any of vs, who of our selues cannot thinke a good thought: Therefore let vs appeale to God, and to his Throne of grace for his assistance and blessing in these weighty affaires of Iudgment.

O blessed Lord God, Father of mercies, and God of all grace, graunt (we humbly intreat thee) to our Iudges and Magistrates, heauenly wisdom, christian courage, godly feare, vncorrupted integritie in hearing and iudging: to all the ministers and instruments of iustice and equitie, vprightnes and good conscience in prosecuting and promoting of actions and causes: to all the people louing affections and peaceable dispositions one toward another, thankfulnes vnto thee for this thine ordinance of iudgement, and dutiful obedience to the rules of pietie, iustice, and equitie: that so vice may be punished, vertue en-

coura-

couraged: iniuſtice may be removed, equitie maintained: The Commonwealth may be proſpered, the Church enlarged; our poore ſoules may be ſaued, and thy great name glorified, in the manifeſtation of thine aboundant mercie in our felicitie: and that for the merits of thine onely Sonne, and our onely Sauiour Ieſus Chriſt, the righteous Iudge of quicke and dead; to whom with Thee, O Father, and with thy Holie-Spirit, three glorious Perſons, but one only true and euer-liuing God, be aſcribed of vs, and of thy whole Church, all Honour, Glorie, Praiſe, Power, Maieſtie, Dominion, and Thankes-giuing, from this time forth for euer-more: Amen.

All glorie be to GOD.

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